



# A MODEL CODE on Education and Dignity

## CHAPTER 5: DATA, MONITORING AND ACCOUNTABILITY

### 5.1 Right to Information and Data Collection

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#### Human Rights Goal

Community members and policymakers must have timely access to relevant information about public education issues of concern. Stakeholders need to be equipped with the necessary data to identify areas needing improvement, to assist in devising solutions to ongoing problems and to hold schools and governments accountable.

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#### Recommended Language

- A. States, districts and schools shall make available to all policymakers and stakeholders, including educators, parents or guardians, students and community members, information and core data concerning the education provided to students including, but not limited to:**
1. Educational programs and services, assessments, school discipline policies and practices, funding sources, budget allocations and other policies and procedures; and
  2. Aggregate data on the educational indicators listed above as well as data disaggregated by age, race and ethnicity, gender, income level, disability, English Language Learners, court-involved youth, homeless students and students in foster care, all consistent with privacy constraints established under federal and state laws and regulations.
- B. States, districts and schools shall provide information and data that is easily accessible and easy to understand and that allows stakeholders to assess the impact of education policies and practices, including disproportionate impacts on certain groups.<sup>366</sup> Stakeholders shall have access to analysis of data conducted by states, districts and schools, as well raw data so that stakeholders can conduct their own independent analysis.<sup>367</sup>**
- C. Personal student records, including attendance records, test scores, grades, disciplinary records, counseling records, psychological records, applications for admissions, health and immunization records, teacher evaluations, counselor evaluations, behavior evaluations, suspensions, expulsions and discharges, shall be provided upon request to the parents or guardians of specific students and to the specific student.<sup>368</sup>**
- D. Standardized Data Collection. In order to accurately assess the effect of educational policies and practices on students and on groups of students that experience negative results at disproportionate rates, it is essential that all data described above be disaggregated by the following demographic groups:**
1. Age
  2. Race and Ethnicity – US Department of Education definitions shall be followed to allow for consistency across states and districts. Further disaggregation for collection and reporting at the state and district level shall be pursued (for example, in addition to a category for Asians, it may be appropriate for states with substantial Asian American populations to disaggregate data for Vietnamese, Chinese, Laotians and other Asian communities)
  3. Gender

4. Income level – The term “low income” means any student who is eligible for the federal free and reduced lunch program.
  5. Disability and special education status – The term disability is defined by Section 504 of the Rehabilitation Act of 1973, and the term special education status is defined by the Individuals with Disabilities Education Act (IDEA).
  6. English Language Learners (ELLs) – ELLs are students who are in the process of developing fluency in English.
  7. Court-involved youth – The term court-involved youth means any young person who comes into contact with the justice system.
  8. Homeless youth – The term homeless youth means any youth who lacks parental, foster, or institutional care and includes youth living in temporary housing.
  9. Youth in foster care – The term youth in foster care means any young person who is under the care or supervision of the foster care system.
- E. To ensure consistency when comparing data between states, districts and schools, definitions of certain common terms used in data collection shall be standardized. This shall apply to the following terms, in addition to the demographic terms listed above:**
1. Graduation rate – The ratio of students who complete the course of study provided by the local school district to satisfy the requirements of gaining a diploma or certificate of completion to the number of students initially enrolled in the program of study over the traditional amount of time taken to complete the program’s coursework. States, districts, and schools should also report a cumulative graduation rate to capture students who take longer than the traditional amount of time to graduate.
  2. Attendance rate – The percentage of total school days that students in a school or district are present in school.
  3. Dropout – A student who has voluntarily or involuntarily ceased attendance at or participation in the school in which the student had been enrolled, but has not transferred to another school district, school or home school, with or without a formal notice from the student, parent or guardian that the student has left the school system.
  4. Voluntary Transfer – Any transfer from one educational institution to another that is initiated by a student, parent or guardian and not mandated or initiated by a school or district.
  5. Involuntary Transfer – Any transfer that is a school or district administrator-initiated transfer in which a student is removed from his or her school of attendance to another comprehensive school or continuation school site, usually for the remainder of the school term, that is mandated and against the will or interest of a student by a school or district. Involuntary transfers for academic reasons are prohibited in Section 3.5 Alternative Schools. Involuntary transfers for disciplinary reasons must adhere to the same due process protections as expulsions, outlined in Section 3.2 Guidelines for Suspensions, Expulsions, and Removals, including guaranteeing the right to a hearing and to appointed counsel at public expense.
  6. Expulsion with educational services – Any long-term exclusion from school attendance and school privileges for disciplinary purposes for more than 5 consecutive days or more than 10 cumulative days up to the remainder of the school year (or longer), including any long term suspensions, expulsions or permanent exclusions from a student’s current school environment, where the local educational agency provides educational services to the student (e.g., school-provided at home instruction or tutoring; removal to an alternative school or other regular school).
  7. Expulsion without educational services – This is prohibited in the Model Code. Where it is still practiced by school districts, data should be collected and defined as any long-term exclusion from school attendance and school privileges for disciplinary purposes for more than 5 consecutive days or more than 10 cumulative days

up to the remainder of the school year (or longer), including any long term suspensions, expulsions or permanent exclusions from a student’s current school environment, where the local educational agency does not provide educational services to the student.

8. Out-of-school suspension – Any temporary removal of a student from their regular school for at least a half day and up to 5 days consecutively or 10 days cumulatively for disciplinary purposes to another setting (e.g., home, behavior center). Out-of-school suspensions include removals in which educational services are provided (e.g., school-provided at home instruction or tutoring or removal to an alternative school or other regular school). Removals in which no educational services are provided are prohibited in this Model Code. Where they are still practiced in school districts, they must be included data collections on out-of-school suspensions.
9. In-school suspension – Any temporary removal of a student from their regular classroom(s) or daily class schedule for disciplinary purposes to another setting (e.g., an alternate classroom in their school) where the student remains under the direct supervision of school personnel (direct supervision means school personnel are physically in the same location as students under their supervision).
10. OCR “disparate impact” standard<sup>369</sup> – Disparate impact means differences in outcomes that may result from the application of “neutral” policies notwithstanding the absence of intentional discrimination. A violation of law may occur if:
  - a. There is a significant disparity in the provision of a benefit or service that is based on race, national origin or sex; and
  - b. The practice at issue does not serve a substantial legitimate justification (i.e. is not educationally necessary); or
  - c. There is an alternative practice that is equally effective in meeting the institution’s goals and results in lower disparities to trigger federal action.
11. “Significant Disparity” – States must show they have a plan to address disparity in discipline for IDEA funding.

**F. Required Categories for Data Collection. In order to ensure that at the local, state and national level consistent data is collected, analyzed, and then forms the basis for program and funding decisions, the following data shall be collected and made available to the public:**

1. State and district learning goals;<sup>370</sup>
2. State and district teaching standards;<sup>371</sup>
3. Educational programs and services including:<sup>372</sup>
  - a. Curricula;
  - b. Academic intervention programs;
  - c. Special education services, including access to research-based services, such as multisensory reading remediation programs;
  - d. Class sizes;
  - e. Access to technology;
  - f. Teacher-student ratios;
  - g. Teacher demographics;
  - h. Access to highly effective teachers with measures based in part on teacher salaries, so as to allow for more reliable comparison between low-poverty and high-poverty schools;
  - i. Guidance counselor to student ratios;
  - j. Social workers and psychologists available to youth and parents or guardians; and
  - k. Professional development provided to teachers and school administrators;

4. Assessment measures including:<sup>373</sup>
    - a. Promotion criteria;
    - b. Student assessment tools;
    - c. Student assessment results by district and school;
    - d. Teacher hiring standards and licensing criteria;
    - e. Teacher assessment tools; and
    - f. Teacher assessment results by district and school
  5. Policies and practices related to school climate and discipline, including:<sup>374</sup>
    - a. Discipline Codes or Student Codes of Conduct;
    - b. Programs and practices implemented as preventive and positive approaches to discipline;
    - c. Procedures and due process protections for exclusion; and
    - d. Training and professional development provided to school staff and safety personnel stationed in schools;
  6. Funding including:<sup>375</sup>
    - a. State, district and school funding sources for education;
    - b. State, district and school budgets for public education;
    - c. State, district and school budgets for school climate and discipline resources;
    - d. State, district and school budgets for education data tracking, collection and reporting;
    - e. Grievance procedures and processes for assistance with school-related concerns;<sup>376</sup>
    - f. Mechanisms for reviewing school-related data;<sup>377</sup> and
    - g. Methods for developing and implementing education reforms.<sup>378</sup>
- G. The following data shall be collected on educational outcomes at the local, state and national level, and made available to the public consistent with privacy constraints established under federal and state privacy laws and regulations. The data shall be aggregated and disaggregated by age, race and ethnicity, gender, income level, disability, English Language Learners, court-involved youth, homeless students and students in foster care, and where available must include cross-tabulation and longitudinal data to allow for in-depth review:**
1. Graduation rates;<sup>379</sup>
  2. Test scores and other assessments of students;<sup>380</sup>
  3. Enrollment rates;<sup>381</sup>
  4. Attendance rates for students and teachers;<sup>382</sup>
  5. Dropouts;<sup>383</sup>
  6. Discharges,<sup>384</sup> other than those that may be described as expulsion, which includes:
    - a. Types of discharges<sup>385</sup> (moved out of district, aged out of public-school eligibility, incarceration, etc.); and
    - b. Number of discharges, by type;<sup>386</sup>
  7. Transfers to alternative schools, remedial programs and GED programs, which includes:
    - a. Transfer policies;
    - b. Transfer rates/statistics, broken down by destination, disproportionately impacted groups, and whether transfer was voluntary or involuntary: If transfer was involuntary, whether administrative hearings were conducted and the outcomes of proceedings;
  8. Discipline policies, statistics and rates, including:<sup>387</sup>
    - a. Types of infractions;
    - b. Teacher/staff members reporting the infractions;

- c. Consequence of infraction, including but not limited to:
    - i. Positive interventions;
    - ii. In-school suspensions;
    - iii. Out-of-school suspensions;
    - iv. Number of students receiving repeated suspensions;
    - v. Length of suspensions;
    - vi. Expulsions;
    - vii. Corporal punishment; and
    - viii. Referrals to alternative schools.
9. Interactions with police and School Resource Officers, including:
    - a. Referrals to probation/law enforcement/courts, including types of incidents;
    - b. School-related arrests, including types of incidents;<sup>388</sup>
    - c. Number and type of student searches;
    - d. Number and type of student interrogations;
    - e. Police officers or school staff involved in incidents with students;
    - f. Trainings for police, security agents and school staff on discipline and cultural sensitivity, including:
      - i. Number and duration of trainings;
      - ii. Types of trainings; and
      - iii. Resources allocated to trainings;
    - g. Number of law enforcement personnel assigned to each school;
    - h. Numbers of schools with metal detectors or other scanning devices on the premises for any part of school year;
  10. Reenrollment statistics of students returning from suspension sites and detention facilities, including:
    - a. Number of students reenrolling or dropping out after suspensions, expulsions, involuntary transfers, alternative school placements, juvenile detention, arrest, detention, adjudication, conviction and incarceration; and
    - b. Number of days between discharge from suspension, detention, or incarceration and registration at a school placement, including, when applicable the number of days between discharge and actually being given a school program, even if the student's name is placed on a register; and
  11. Student, parent or guardian and teacher surveys on:<sup>389</sup>
    - a. Curriculum and instructional practices;
    - b. Student engagement in the learning process;
    - c. School climate and discipline; and
    - d. Mechanisms for student, parent or guardian and teacher participation in decision-making.

**H. Monitoring, Oversight and Accountability in Charter Schools. States, districts and charter schools shall:**

1. Require that charter schools comply with all state and federal laws regarding reporting (including school report card requirements) and transparency.
2. Make available to all policymakers and stakeholders, including educators, parents or guardians, students and community members, information and core data concerning the education provided to students.
3. Monitor charter school enrollment and retention practices through uniform and consistent data requirements to ensure that charter schools are enrolling a proportionate share of students who receive free and reduced lunch, are English Language Learners, have disabilities or special needs, are homeless or in temporary housing situations and are from the most vulnerable families.

4. Require public documentation and reporting of student attrition throughout the school year, including date, reason and disposition (where the student ends up being placed). This data should be disaggregated by race/ethnicity, gender, age, grade level, free/reduced meal status, homelessness, disability status and English proficiency status.
5. Report timely and accurate data in compliance with the Civil Rights Data Collection by the Department of Education. Charter schools, along with other public schools, should report data on exclusionary discipline (in-school and out-of-school suspensions and expulsions), transfers to alternative schools, referrals to law enforcement, arrests and any other removals disaggregated by race, gender, age, grade, disability status, homelessness and English language proficiency.
6. Require that, as publicly funded institutions, charter schools make financial documents available to the public on a regular basis. This includes detailed information about the use of both public and private funds by the school and its management entities.

<sup>366</sup> See generally Seattle Public Schools. Code of Prohibited Conduct (offered in twelve different languages for easy accessibility).

<sup>367</sup> See generally Minnesota Public Schools, Evaluation and Assessment available at [http://rea.mpls.k12.mn.us/evaluation\\_and\\_research](http://rea.mpls.k12.mn.us/evaluation_and_research). See also Reports and data on key MPS topics available at [http://www.mpls.k12.mn.us/Reports\\_and\\_data](http://www.mpls.k12.mn.us/Reports_and_data). See also Minnesota Department of Education available at <http://education.state.mn.us/MDEAnalytics/Reports.jsp>.

<sup>368</sup> See 20 U.S.C. § 1232g; 34 CFR Part 99.

<sup>369</sup> See 34 C.F.R. § 100.3(b)(2) (Dept. of Education). See also 42 U.S.C. § 2000d and Title VI of the Civil Rights Act (prohibiting race, ethnicity and national origin discrimination against e.g., applicants, students, employees) and Title IX (prohibiting sex discrimination).

<sup>370</sup> See generally Virginia Department of Education Procedures for Data Collection and Reporting, pg. 7-8.

<sup>371</sup> Id.

<sup>372</sup> Id; see also National Center for Education Statistics Standards for Education Data Collection and Reporting.

<sup>373</sup> Id.

<sup>374</sup> See Denver Public Schools Policy JK-R Section 7, at <http://ed.dpsk12.org:8080/policy/FMPro?-db=policy.fp3&-format=detail.html&-lay-html&-sortfield=File&-op=eq&Category=Students&-recid=32967&-find=>; see also San Francisco Unified School District Student and Parent/Guardian Handbook, pg. 58, at [http://portal.sfusd.edu/data/pupil/SFUSD\\_StudentHandbook\\_2008-2009\\_ENGLISH.pdf](http://portal.sfusd.edu/data/pupil/SFUSD_StudentHandbook_2008-2009_ENGLISH.pdf).

<sup>375</sup> See generally Virginia Department of Education Procedures for Data Collection and Reporting, pg. 7-8. See also National Center for Education Statistics Standards for Education Data Collection and Reporting.

<sup>376</sup> Id.

<sup>377</sup> See San Francisco Unified School District Student and Parent/Guardian Handbook, pg 58.

<sup>378</sup> Id.

<sup>379</sup> See ESEA Section 1111(h)(6).

<sup>380</sup> Id.

<sup>381</sup> Id.

<sup>382</sup> See generally id.

<sup>383</sup> See Denver Public Schools Policy JK-R Section 7.

<sup>384</sup> Id.

<sup>385</sup> Id.

<sup>386</sup> Id.

<sup>387</sup> See Denver Public Schools Policy JK-R Section 7; see also San Francisco Unified School District Student and Parent/Guardian Handbook, pg 58.

<sup>388</sup> See generally Denver Public Schools Policy JK-R Section 7.

<sup>389</sup> See generally Denver Public Schools Policy JK-R Section 7.