



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF FINANCE AND OPERATIONS

January 19, 2021

Superintendent Todd Kimrey
Woodland School District
100 N. 6th Street
Fairfax, Oklahoma 74637

Dear Superintendent Todd Kimrey:

I write regarding your school district's failure to submit and certify data for the U.S. Department of Education's (Department) Office for Civil Rights (OCR) Civil Rights Data Collection (CRDC) for the 2015-16 and 2017-18 school years.¹ Your district agreed as a term and condition of receiving Federal financial assistance that it would comply with all applicable Federal requirements,² which includes the requirement to submit reports and information pertinent to civil rights compliance requested by the Department. In this case, that means you must submit and certify CRDC data in a timely and accurate manner. As a result of your non-compliance, as explained below, we are placing your district on "high risk" status for grant award purposes and are taking additional action with respect to your district's grants.

The collection, in existence since 1968, is used by OCR to help ensure that recipients of the Department's Federal financial assistance do not discriminate on the basis of race, color, national origin, sex, or disability. Your school district is the only one to fail to submit and certify data for the last two collections out of over 17,000 districts across the nation.

Your school district was reminded about the requirement to submit data to the CRDC after the close of the 2015-16 collection. See Attachment A, Letter from former Acting Assistant Secretary for Civil Rights, Candice Jackson, Dated March 12, 2018. The March letter required your district to submit a written certification, by March 28, 2018, confirming that data would be submitted for the 2017-18 collection in a complete and timely fashion. The March letter informed your school district that failure to respond might lead the Department to take additional administrative action under 2 C.F.R. §§ 200.207(a)³ and 3474.10.⁴ The letter also stated: "These

¹ The Woodland School District last complied with the CRDC when it submitted data for the 2013-14 school year. See <https://ocrdata.ed.gov/Page?t=d&eid=29905&syk=7&pid=2008>.

² See 34 CFR §§ 75.700 and 76.770.

³ A Federal awarding agency may impose additional specific award conditions as needed, including when an applicant or recipient has a history of failure to comply with the general or specific terms and conditions of a Federal award. This regulation can now be found at 2 C.F.R. § 200.208(b).

⁴ "The Secretary or a pass-through entity may, in appropriate circumstances, designate the specific conditions established under 2 CFR 200.207 as 'high-risk conditions' and designate a non-Federal entity subject to specific conditions established under §200.207 as 'high-risk'."

actions include limiting your district's ability to receive [F]ederal funding." The letter then encouraged your school district to contact the CRDC's Partner Support Center for technical assistance. Your school district did not meet the deadline to respond to the March 12, 2018 letter, by March 28, 2018, nor did it ever respond to OCR's letter. Neither OCR nor the CRDC's Partner Support Center have any record of a request by your school district for technical assistance for the remainder of that year.

As the 2017-18 collection phase⁵ neared closure your school district received several reminders regarding the need to submit data in a complete and timely fashion. The CRDC's Partner Support Center called Trina Hutchison, Superintendent Secretary, on April 24, 2019, and followed up with an electronic mail. See Attachment B, Electronic Mail from the CRDC Partner Support Center, Summarizing Trina Hutchinson Telephone Call, Dated April 24, 2019. Next, the CRDC's Partner Support Center contacted your school district's State Education Agency (SEA), on June 3, 2019, by writing:

We are running into some trouble getting WOODLAND (NCES LEA ID: 4030048) to work on their submission. No data has been entered except for the data Oklahoma prefilled. We have made several attempts to reach out to Todd Kimrey and Trina Hutchison by email and phone. They have been unresponsive is there anything Oklahoma can do to help motivate Woodland?

See Attachment C, Electronic Mail from the CRDC Partner Support Center to the Oklahoma State Education Agency, Dated June 3, 2019. The CRDC's Partner Support Center again reached out to you, via electronic mail dated June 6, 2019, and informed you that:

Your school district is obligated, as a term and condition of receiving Federal financial assistance, to comply with all applicable Federal requirements. (See 34 CFR §§ 75.700 and 76.770)[.] This includes the requirement to submit reports and information pertaining to civil rights compliance requested by the U.S. Department of Education (Department). In this case, that means you must submit and certify Civil Rights Data Collection (CRDC) data in a timely and accurate manner.

See Attachment D, Electronic Mail to Superintendent Todd Kimrey, Dated June 6, 2019. Neither OCR nor the CRDC's Partner Support Center have any record of a response from your school district. In addition, you were informed that failure to comply might lead to "being placed on high risk" status within the Department (which could include having conditions placed on funding) or, ultimately, the termination of federal funds." Additionally, this June 6th electronic message made clear to you that your school district had the opportunity to request an extension by June 14, 2019. Your school district did not seek an extension.

Moreover, your district received a letter dated June 10, 2019, from former Deputy Assistant Secretary for Policy and Development, William E. Trachman, stating that your district was

⁵ The 2017-18 CRDC opened January 2019 and closed on June 21, 2019.

required to “complete and certify its submission for the 2017-18 CRDC by no later than June 21, 2019.” See Attachment E, Letter from former Deputy Assistant Secretary for Policy and Development, William E. Trachman, Dated June 10, 2019. The June letter also reminded your school district of the following:

“[F]ailure to submit data could result in serious consequences that include having your district placed on high-risk status for grant award purposes, and having specific conditions placed on grants received from the Department, either directly or as a subgrantee, or other appropriate action.” [Footnote omitted].

The June 10, 2019, letter also encouraged your school district to contact the CRDC’s Partner Support Center for assistance in submitting your data, but neither OCR nor the CRDC’s Partner Support Center have any record of a response from your school district.

Finally, on June 19, 2019, the CRDC’s Partner Support Center sent a message⁶ to you which stated:

Your LEA is currently marked as **non-compliant** and potentially subject to further action. Your school district is obligated, as a term and condition of receiving Federal financial assistance, to comply with **ALL** applicable Federal requirements. (See 34 CFR §§ 75.700 and 76.770)[.] This includes the requirement to submit reports and information pertaining to civil rights compliance requested by the U.S. Department of Education. You must submit and certify Civil Rights Data Collection (CRDC) data in a timely and accurate manner.

If your district fails to comply with the laws and regulations that the Office for Civil Rights (OCR) enforces by not submitting CRDC data, your district could be subject to administrative enforcement, including being placed on “high risk” status within the Department (which could include having conditions placed on funding) or, ultimately, the termination of [F]ederal funds. Therefore, it is important that you accurately report all the required CRDC data.

See Attachment F, CRDC Partner Support Center Electronic Mail, Dated June 19, 2019. Neither OCR nor the CRDC’s Partner Support Center have any record that your school district replied to this communication.

After the 2017-18 CRDC closed on June 21, 2019, OCR made several attempts to contact your school district. An electronic message was sent directly to you on September 13, 2019. In it OCR’s CRDC Supervisory Statistician, Janis Brown, requested a conference call to discuss why your school district did not comply with the CRDC, and to learn more about your school

⁶ The CRDC’s Partner Support Center communication also included a copy of the June 10, 2019, letter from former Deputy Assistant Secretary for Policy and Development, William E. Trachman.

district's challenges in submitting data on a timely basis. See Attachment G, Electronic Mail from Janis Brown to Superintendent Todd Kimrey, Dated September 13, 2019. You did not reply, and Janis Brown followed up with you. See Attachment H, Electronic Mail from Janis Brown to Superintendent Todd Kimrey, Dated September 23, 2019. When you again failed to reply, Janis Brown called your office and spoke with Trina Hutchinson, Superintendent Secretary, who shared that you were away for the remainder of that week. See Attachment I, Electronic Mail from Janis Brown, Summarizing Trina Hutchinson Telephone Call, Dated October 9, 2019. You wrote back on the following Monday, with the following message: "Would you please send me the documentation mandating the Civil Rights Data information for 2017-18. Thank you." See Attachment J, Electronic Mail from Superintendent Todd Kimrey to Janis Brown, Dated October 14, 2019. In response, Janis Brown sent the requested information to you, and once again requested a conference call. See Attachment K, Electronic Mail from Janis Brown to Superintendent Todd Kimrey Inquiry, Dated October 17, 2019. The final reply received from you, reads as follows: "Lack of staff is the primary reason for not submitting the requested reports." See Attachment L, Electronic Mail Reply from Superintendent Todd Kimrey Superintendent to Janis Brown, Dated October 17, 2019.

The Woodland School District failed to report data for two collections – an obligation, as a term and condition of receiving Federal financial assistance – and failed to make a reasonable effort to work with OCR, while many opportunities were offered, as we sought to better understand the challenges that may be faced by your school district.

In light of these facts, the Department is placing the Woodland School District on "high risk" status for grant award purposes. See 2 C.F.R. § 3474.10.⁷ We will also be requesting that the Oklahoma State Department of Education (OSDE) place your school on high risk status with regard to State-administered funds provided by the Department, such as Title I, Part A of the Elementary and Secondary Education Act, and the Individuals with Disabilities Education Act (IDEA), Part B. With regard to those programs, the Department will request OSDE impose the high-risk conditions set out in this letter on any State-administered grants you receive from that agency. See C.F.R. § 200.208(b).⁸ Being placed on high risk status means that the Department

⁷ "The Secretary or a pass-through entity may, in appropriate circumstances, designate the specific conditions established under 2 CFR 200.207 as 'high-risk conditions' and designate a non-Federal entity subject to specific conditions established under §200.207 as 'high-risk'." See 2 CFR 3474.10.

⁸ Specific Conditions. Based on the criteria set forth in §200.206, the applicant or recipient's history of compliance with the general or specific terms and conditions of a Federal award, the applicant or recipient's ability to meet expected performance goals as described in §200.211, or a responsibility determination of an applicant or recipient, the Federal awarding agency or pass-through entity may adjust specific Federal award conditions as needed, in accordance with this section. These additional Federal award conditions may include items such as the following: (1) Requiring payments as reimbursements rather than advance payments; (2) Withholding authority to proceed to the next phase until receipt of evidence of acceptable performance within a given performance period; (3) Requiring additional, more detailed financial reports; (4) Requiring additional project monitoring; (5) Requiring the non-Federal entity to obtain technical or management assistance; or (6) Establishing additional prior approvals. (d) If the Federal awarding agency or pass-through entity is imposing additional requirements, they must notify the applicant or non-Federal entity as to: (1) The nature of the additional requirements; (2) The reason why the additional requirements are being imposed; (3) The nature of the action needed to remove the additional requirement, if applicable; (4) The time allowed for completing the actions if applicable, and (5) The method for requesting reconsideration of the additional requirements imposed.

will consider that status in reviewing any of your school district's applications for grants, including the continuation of any grants from the Department.

In order to comply with the high risk status designation, you must collect, submit, and certify Woodland School District's data for this school year, and you must take the following steps:

1. By February 1, 2021, the Woodland School District must indicate to the Department it has or is developing a collection instrument that is or will be used to track/collect the required data (*e.g.*, software program).
2. Woodland must complete any development of this instrument and provide documentation of this instrument by March 1, 2021.
3. The Woodland School District must identify personnel responsible for collecting and reporting CRDC data for the 2020-21 collection.⁹ The list of personnel, and the corresponding contact information, must be provided to OCR by March 1, 2021.
4. The Woodland School District must schedule a meeting with OCR to undergo a virtual CRDC training, regarding the requisite responsibilities and duties, and the use of the on-line submission system. The training must include the personnel identified above under item three. A training must take place no later than March 1, 2021.
5. Throughout the collection school year, the Woodland School District must report to OCR on a monthly basis, affirming that it is collecting and maintaining school- and LEA-level data required under the CRDC. The affirmation dates are the first Monday of each Month, commencing on March 1, 2021.
6. Once the on-line submission opens for the next required collection, the Woodland School District must report to OCR on a monthly basis by providing updates as to its progress in submitting the required data.
7. Once the Woodland School District submits and certifies its data for the next required collection, it must also send a separate written notification to OCR. The OCR contact is Stephanie R. Miller, Ph.D, CRDC Supervisory Statistician/Team Lead, Civil Rights Data Collection (stephanie.miller@ed.gov/(202) 245-8450).
8. The reports that are being provided under items five and six must be certified as complete and accurate by the Superintendent and the School Board President.

While you are responding to these conditions, we are placing your grants from the Department on a reimbursement basis and we will request the OSDE to treat your district's State-administered grants in a similar status. We note that failure to satisfy the conditions listed above by the specified dates means that the Department will consider further administrative actions including withholding further grant funding (subject to an appropriate notice and opportunity for a hearing) from the Woodland School District. If you decide to seek reconsideration of the high risk status designation and specific conditions noted above, please send the appropriate information (including providing in writing the basis for your district's belief that high risk designation or the particular conditions are not appropriate) within ten days to Trinh Le, Risk Management Services Division, Office of Acquisition and Grants Administration, via email at Trinh.Le@ed.gov or via U.S. Mail at:

⁹ CRDC responsibilities include tracking the data, reporting it through the CRDC on-line submission system, and serving as the point of contact to receive collection communications.

Trinh Le
U.S. Department of Education
Office of Acquisition and Grants Administration
400 Maryland Avenue, S.W.
Washington, D.C. 20202

The next required CRDC will again be a universal collection, in which every public school district and school in the nation will be required to participate. You should already be collecting this data to prepare for the next submission cycle.

Please let me know if you have any questions. We appreciate your immediate attention to this matter.

Sincerely,



Phillip R. Juengst
Deputy Assistant Secretary for Acquisition
and Grants Administration
Office of Finance and Operations



Kimberly M. Richey
Acting Assistant Secretary
Office for Civil Rights

CC: Joy Hofmeister, Oklahoma State Superintendent of Public Instruction
Phil Bachrach, Chief of Staff to the State Superintendent of Public Instruction
Dawn Williams, EDFacts Coordinator
Lakisha Simon

Attachment

The Civil Rights Data Collection (CRDC) is a statutorily mandatory data collection that your school district is legally obligated to complete.

- The 1979 Department of Education Organization Act conveys to the Assistant Secretary for Civil Rights the authority to “collect or coordinate the collection of data necessary to ensure compliance with civil rights laws within the jurisdiction of the Office for Civil Rights.” 20 U.S.C. § 3413(c)(1).
- The civil rights laws enforced by the Office for Civil Rights (OCR) include:
 - Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color and national origin;
 - Title IX of the Education Amendments of 1972, which prohibits discrimination based on sex; and
 - Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability.
- OCR’s implementing regulations for each of these statutes requires recipients of the Department’s federal financial assistance to submit to OCR “complete and accurate compliance reports at such times, and in such form and containing such information” as OCR “may determine to be necessary to enable [OCR] to ascertain whether the recipient has complied or is complying” with these laws and implementing regulations. 34 C.F.R. § 100.6(b); 34 C.F.R. § 106.81; 34 C.F.R. § 104.61. Any data collection that OCR has determined to be necessary to ascertain or ensure compliance with these laws is mandatory.
- Other recordkeeping requirements relied on for data collections include—
 - 20 U.S.C. § 1232f requires that recipients of Department funds maintain records that “will facilitate an effective financial or programmatic audit.”
 - 2 C.F.R. § 200.334 and 2 C.F.R. § 200.337 require school districts to maintain financial and programmatic records related to Department grants and sub-grants and provide the Department with access to these records.
 - 34 C.F.R. § 76.731 further provides that “[a] State and a subgrantee shall keep records to show its compliance with program requirements.” School districts are subgrantees of the State in ESEA and other programs. See also 34 C.F.R. § 75.731.