



November 20, 2023

Elizabeth Poehler  
Assistance Division Chief for Survey Methods  
U.S. Census Bureau, U.S. Department of Commerce  
1401 Constitution Avenue NW  
Washington, DC 20230

*Submitted via regulations.gov*

**RE: Public Comment on American Community Survey Methods Panel: 2024 Sexual Orientation and Gender Identity Test [Docket No. USBC–2023–0007]**

Dear Ms. Poehler,

GLSEN is the leading national organization on LGBTQI+ issues in K-12 education, working to ensure that all youth – including lesbian, gay, bisexual, transgender, queer, nonbinary, Two-Spirit, and intersex youth – can thrive, grow, and reach their full potential. GLSEN works to build safe and affirming learning environments for LGBTQI+ youth while advancing racial, gender, and disability justice in schools. GLSEN thanks the Census Bureau for the opportunity to submit a comment on the American Community Survey (“ACS”) Methods Panel: 2024 Sexual Orientation and Gender Identity Test (“Proposed Test”). **We urge the Census Bureau to adopt the Proposed Test to collect information on sexual orientation and gender identity (SOGI) in the 2024 ACS.** Adoption of the Proposed Test is a necessary step to strengthen federal data collection on LGBTQI+ communities that include youth who are increasingly impacted by adverse conditions.

National surveys fail to fully count the more than 11.3 million LGBTQI+ people living in the United States.<sup>1</sup> The current ACS only collects information on same-sex couples who are cohabiting, which is heavily skewed towards older populations.<sup>2</sup> The Williams Institute estimates that 80% of the LGBTQI+ population in the United States go unidentified by the Census Bureau’s surveys due to the absence of SOGI questions.<sup>3</sup> Additionally, the Census Bureau reported that the 2020 Census significantly undercounted those under the age of 18.<sup>4</sup>

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<sup>1</sup>Conron, K.J., Goldberg, S.K., Adult LGBT Population in the United States. (July 2020). The Williams Institute, UCLA, Los Angeles, CA.

<https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-Adult-US-Pop-Jul-2020.pdf>

<sup>2</sup> Scherer, Zachery. *Number of Same-Sex Couple Households Exceeded 1 Million in 2021*, CENSUS.GOV (Nov. 22, 2022), <https://www.census.gov/library/stories/2022/11/same-sex-couple-households-exceeded-one-million.html>

<sup>3</sup> Williams Institute Scholars, Comment Letter on Proposed Basic Demographic Items for the Current Population Survey (Mar. 22, 2021), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Comment-CPS-Mar-2021.pdf>.

<sup>4</sup>“Census Bureau Releases Estimates of Undercount and Overcount in the 2020 Census.” United States Census Bureau, March 10, 2022,

[www.census.gov/newsroom/press-releases/2022/2020-census-estimates-of-undercount-and-overcount.html](http://www.census.gov/newsroom/press-releases/2022/2020-census-estimates-of-undercount-and-overcount.html).

Federal data collection efforts are essential in identifying disparities faced by the LGBTQI+ community, informing public policy solutions, and allocating resources. Decision-makers at all levels of government and society will benefit from a more accurate and complete data set about the LGBTQI+ community - including LGBTQI+ youth. Current federal data sets, which do not enumerate sexual orientation or gender identity in their collection, fail to contextualize the experience of LGBTQI+ youth, functionally rendering LGBTQI+ youth invisible. The absence of data inhibits efforts to address the specific needs of LGBTQI+ youth in K-12 learning communities, fueling ongoing stigma against LGBTQI+ children and contributing to a pattern of underreporting of incidences of victimization in K-12 learning environments.

GLSEN understands the commitment of the Administration to protect and uplift diverse communities that are historically marginalized.<sup>5</sup> The inclusion of young adults on the Proposed Test is an important next step in collecting information on LGBTQI+ youth, but the Census Bureau should carefully consider the privacy and safety concerns related to LGBTQI+ youth and continue to review these concerns with future iterations of the ACS. The Proposed Test is an important step in providing a more accurate data landscape of the diversity within our communities. GLSEN recommends that the Proposed Test be adopted by the Census Bureau with special attention given to the needs of LGBTQI+ youth respondents.

### **LGBTQ+ Youth Disparities**

Inclusion of the Proposed Test in the ACS will play an important role in providing a fuller landscape of data, more specifically detailing the disparities faced by LGBTQI+ youth. Documenting disparities between LGBTQI+ communities and their cisgender heterosexual counterparts requires accurate and timely data. In the absence of comprehensive federal data sets, GLSEN's National Student Climate Survey (NSCS) has provided a snapshot of the pressing issues facing LGBTQI+ youth in secondary schools for over twenty years.<sup>6</sup> The 2021 NSCS surveyed over 22,000 LGBTQI+ secondary students from all fifty states, the District of Columbia, Guam, Puerto Rico, U.S. Virgin Islands, and Northern Mariana Islands in order to examine their experiences at school. GLSEN's NSCS explores the extent of victimization experienced by LGBTQI+ young people, the effectiveness of local interventions (e.g., inclusive school policies, supportive educators, etc.), and the need for further government action to address the well-being of LGBTQI+ students. The 2021 NSCS reported that 83.1% of LGBTQI+ students experienced harassment or assault in school settings, adversely impacting academic achievement and student mental health.<sup>7</sup> For example, 32.2% of LGBTQI+ students missed at

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<sup>5</sup> Executive order 14075 of June 15, 2022. *Advancing Equality for Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex Individuals*. 87 Federal Register Volume 87, Issue 118 (June 21, 2022).

<https://www.govinfo.gov/app/details/FR-2022-06-21/2022-13391/summary>

<sup>6</sup> Kosciw, J. G., Clark, C. M., & Menard, L. (2022). *The 2021 National School Climate Survey: The experiences of LGBTQ+ youth in our nation's schools*. New York: GLSEN.

<sup>7</sup> *Ibid.*, p. 19.

least one entire day of school in the past month because they felt unsafe.<sup>8</sup> Although LGBTQ+ youth face several barriers in school settings, data made available through GLSEN’s NSCS has demonstrated the success of school-based interventions in improving LGBTQI+ students’ academic performance, school belonging, and mental health.

Outside of educational environments, LGBTQI+ young adults continue to face discrimination and disparate outcomes. LGBTQI+ youth are at a higher risk for “substance use, sexually transmitted diseases (STDs), cancers, cardiovascular diseases, obesity, bullying, isolation, rejection, anxiety, depression, and suicide compared to the general population.”<sup>9</sup> More robust data collection about LGBTQI+ youth can inform federal efforts to direct resources to address health disparities - including mental health disparities - while also rooting out discriminatory practices in programs and services under federal civil rights laws. In 2020, the U.S. Supreme Court decision in *Bostock v. Clayton County* determined that civil rights protections prohibiting sex discrimination would also extended to claims related to sexual orientation and gender identity.<sup>10</sup> Since ACS data is used to enforce civil rights laws in housing, employment, and education, the inclusion of SOGI questions is critical to inform federal civil rights enforcement, especially as federal agencies work to implement the *Bostock* decision.

### **Nonbinary and ‘Mark All That Apply’ Options**

We are pleased to see that the Census Bureau is including a nonbinary option and the ability to “mark all that apply” on the Proposed Test. This aligns with current best practices when asking about SOGI characteristics. The National Academies of Science, Engineering, and Medicine (NAEM) recommends the inclusion of a nonbinary option as a way of documenting the different experiences of LGBTQI+ communities.<sup>11</sup> Capturing nonbinary respondents is crucial for highlighting youth voices as young adults are more likely to identify with transgender and nonbinary identities.<sup>12</sup> According to GLSEN’s NSCS, 31.5% of LGBTQI+ students surveyed identified as nonbinary.<sup>13</sup> To accurately capture the composition of communities across the country, the Proposed Test meets an important goal as the Census Bureau is responsive to the shifting demographics in younger generations.

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<sup>8</sup> Ibid, p. 12

<sup>9</sup> Hafeez H, Zeshan M, Tahir MA, Jahan N, Naveed S. Health Care Disparities Among Lesbian, Gay, Bisexual, and Transgender Youth: A Literature Review. *Cureus*. 2017 Apr 20; 9(4):e1184. doi: 10.7759/cureus.1184. PMID: 28638747; PMCID: PMC5478215. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5478215/>

<sup>10</sup> *Bostock v. Clayton County*, 590 U. S. \_\_\_\_ (2020)

<sup>11</sup> National Academies of Sciences, Engineering, and Medicine. 2022. *Measuring Sex, Gender Identity, and Sexual Orientation*. Washington, DC: The National Academies Press. <https://doi.org/10.17226/26424>.

<sup>12</sup> Brown, Anna. “About 5% of Young Adults in the U.S. Say Their Gender Is Different from Their Sex Assigned at Birth.” Pew Research Center, Pew Research Center, 7 June 2022, [www.pewresearch.org/short-reads/2022/06/07/about-5-of-young-adults-in-the-u-s-say-their-gender-is-different-from-their-sex-assigned-at-birth/](http://www.pewresearch.org/short-reads/2022/06/07/about-5-of-young-adults-in-the-u-s-say-their-gender-is-different-from-their-sex-assigned-at-birth/).

<sup>13</sup> Kosciw et al. (2022), p. 6

The ‘write in a response’ feature also accounts for the diversity of LGBTQI+ communities. Self-identification is critical for many LGBTQI+ community members. Sexual orientation and gender identity can be very personal and providing space for self-identification allows LGBTQI+ people to choose how they are represented. Concurrently, the ability to mark all that applies also gives respondents flexibility when describing themselves. For example, not every nonbinary person identifies as transgender and the mark all that apply choice allows for this reality.<sup>14</sup> The multiple ways for LGBTQI+ respondents to describe themselves accurately as well as the verification question that helps fight against unintentional over-documentation makes the Proposed Test a suitable addition to the ACS.

### **For Further Consideration**

The ACS relies on “proxy reporting” in which one member of the household fills out the survey for everyone. Researchers have demonstrated that proxy reporting is feasible for large-scale, federal surveys and can be used to collect SOGI information.<sup>15</sup> Special considerations need to be made when relying on proxy reporting to document the responses of young adults. First, proxy reporting may result in undercounting, as LGBTQI+ youth may not be out to their parents. The Human Rights Campaign (HRC) reports that, while more young people are out to family, information about their sexual orientation or gender identity is not shared equally.

HRC documents that 20% of LGBTQI+ youth are not out to any of their immediate family members and 32% of transgender and gender expansive youth are not out to any immediate family members. Overall, 17% of LGBTQI+ youth are completely closeted.<sup>16</sup> Proxy reporting can be stymied by the consequences of coming out for some LGBTQI+ youth such as familial rejection and homelessness. Furthermore, some LGBTQI+ youth and their families may be concerned about accurately completing SOGI-related questions because of a lack of clarity about *who* has access to SOGI-related data and how such data will be used. The Census Bureau should continue working with leading LGBTQI+ organizations and researchers to develop additional methods that will adequately safeguard collected data and ensure informed consent and public awareness about LGBTQI+ inclusion and outreach in federal data collection.

While we commend the Census Bureau for its deep consideration when structuring the proposed SOGI questions, we hope future iterations will include questions on intersex status. Intersex is an umbrella term for differences in sex traits or reproductive anatomy.<sup>17</sup> Approximately 1.7% of

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<sup>14</sup>HRC Foundation. “Transgender and Non-Binary People FAQ.” Human Rights Campaign, [www.hrc.org/resources/transgender-and-non-binary-faq](http://www.hrc.org/resources/transgender-and-non-binary-faq).

<sup>15</sup> Holzberg, Jessica, Ellis, Renee, Kaplan, Robin, Virgile, Matt and Edgar, Jennifer. "Can They and Will They? Exploring Proxy Response of Sexual Orientation and Gender Identity in the Current Population Survey" *Journal of Official Statistics*, vol.35, no.4, 2019, pp.885-911. <https://doi.org/10.2478/jos-2019-0037>

<sup>16</sup> Goldberg S. K., Lewis T., Kahn E., Watson R. J. (2023). 2023 LGBTQ+ Youth Report. Human Rights Campaign Foundation. [hrc.im/youthreport2023](http://hrc.im/youthreport2023)

<sup>17</sup>“FAQ: Intersex, Gender, and LGBTQIA+.” interACT, 20 Oct. 2020, [interactadvocates.org/faq/intersex-lgbtqia](http://interactadvocates.org/faq/intersex-lgbtqia)

Americans are born intersex, yet data on intersex individuals remains marginal.<sup>18</sup> Similarly to SOGI questions for LGBTQ+ communities, questions on intersex status are needed to document variation amongst the public and to include intersex individuals. We hope the Census Bureau will continue working with federal agency partners and intersex-led organizations to develop best practices on intersex inclusion.

Similarly, we urge that the Census Bureau create a Two-Spirit option for respondents who identify as American Indian or Alaska Native (AIAN). Two-Spirit is a term used to describe Native community members who embody both masculine and feminine traits, encompassing the many gender expansive traditions of Indigenous cultures.<sup>19</sup> There is currently very little research data on Two-Spirit individuals with much of the research being published in the last decade.<sup>20</sup> This notable gap in data leaves the unique concerns of Two-Spirit folks without representation in federal data collections. We recommend including a Two-Spirit option to document the gender diversity of Indigenous communities.

## **Conclusion**

GLSEN strongly supports the Proposed Test and urges the Census Bureau to continue to work toward full and thoughtful inclusion of SOGI measurements in federal data collection. LGBTQI+ individuals can no longer go uncounted or undercounted in federal surveys, as it leaves LGBTQI+ communities, and especially LGBTQI+ youth, without the proper resources to address entrenched disparities. Thank you for your attention to our comment, and we look forward to continuing to work with the Census Bureau to uplift and document LGBTQI+ youth responses. If you have questions about this comment, please contact GLSEN's Director of Public Policy Brian Dittmeier at [brian@glsen.org](mailto:brian@glsen.org).

Sincerely,

Aaron Ridings

Deputy Executive Director for Administration, Policy, and Research  
GLSEN

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<sup>18</sup> Blackless, M., Charuvastra, A., Derryck, A., Fausto-Sterling, A., Lauzanne, K. and Lee, E. (2000), How sexually dimorphic are we? Review and synthesis. *American Journal of Human Biology*, 12: 151-166.

[https://doi.org/10.1002/\(SICI\)1520-6300\(200003/04\)12:2<151::AID-AJHB1>3.0.CO;2-F](https://doi.org/10.1002/(SICI)1520-6300(200003/04)12:2<151::AID-AJHB1>3.0.CO;2-F)

<sup>19</sup> Zongrone, A. D., Truong, N. L., & Kosciw, J. G. (2020). Erasure and resilience: The experiences of LGBTQ students of color, Native American, American Indian, and Alaska Native LGBTQ youth in U.S. schools. New York: GLSEN. <https://www.glsen.org/sites/default/files/2020-06/Erasure-and-Resilience-Native-2020.pdf>

<sup>20</sup> Morgan Thomas , Tara McCoy , Itai Jeffries , Richard Haverkate , Elton Naswood , Jessica Leston & Laura Platero (2022) Native American Two Spirit and LGBTQ health: A systematic review of the literature, *Journal of Gay & Lesbian Mental Health*, 26:4, 367-402, DOI: [10.1080/19359705.2021.1913462](https://doi.org/10.1080/19359705.2021.1913462)