

# Federal Evidence Agenda on LGBTQI+ Equity Response

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**Comments compiled by:** Claire Kelley, Madeline Carter, Alyssa Liehr, Karlee Naylor, Catherine Schaefer, Deborah Temkin, and Elizabeth Jordan

Dear White House Office of Science and Technology Policy:

We appreciate this opportunity to share our recommendations for improving the federal government's ability to make data-informed policy decisions that advance equity for LGBTQI+ children, youth, and families. Child Trends is a highly respected, nonpartisan research organization focused exclusively on improving the lives and prospects of children, youth, and their families. We strive to ensure that our research accurately reflects the experiences of lesbian, gay, bisexual, transgender, queer, questioning, and intersex youth (LGBTQI+)—including those who are asexual, pansexual, Two-Spirit, and nonbinary. We recognize that LGBTQI+ youth's identities must be affirmed and respected in the research, policies, and programs that impact young people's lives. Our work recognizes that many LGBTQI+ youth experience multiple forms of discrimination and stigma—including racism, sexism, ableism, and classism—in addition to homophobia and transphobia. We also celebrate strengths and protective factors: Most LGBTQI+ youth successfully navigate adolescence, and their supportive relationships with family, school staff, and peers can serve as critical buffers to experiences of discrimination and stigma. You can access our full body of work on LGBTQI+ youth and families at <https://www.childtrends.org/research-topic/lgbtq>.

The authors who contributed to these comments bring a wealth of academic and research experience related to LGBTQI+ youth and their families, as well as the many systems that can play a role in supporting them. Our areas of expertise include youth development, education and special education systems, child welfare, data science, data integration, and federal data sets.

**Describing Disparities Question 1: What disparities faced by LGBTQI+ people are not well-understood through existing Federal statistics and data collection? Are there disparities faced by LGBTQI+ people that Federal statistics and other data collections are currently not well-positioned to help the Government understand?**

Child Trends frequently uses federal statistics and data collections for our research. As an organization focused exclusively on children and families, we are uniquely positioned to elevate gaps within federal data that are specific to children and families. **Specifically, we call the following data gaps to your attention:**

- **LGBTQI+ youth who are in foster care:** Through local-level research studies, we know that, while in care, LGBTQI+ youth encounter an array of injustices, including discrimination, marginalization, lack of acceptance, placement instability, high rates of placement in congregate care, and a higher likelihood of running away.<sup>1</sup> In turn, LGBTQI+ foster youth and former foster youth face disproportionate adverse mental health impacts in the form of elevated risk for anxiety and depression, mental health challenges,

substance use, self-harm, and suicidality.<sup>ii</sup> Although we know these disparities exist, we lack national data on LGBTQI+ youth in foster care that would help states ensure that this population receives adequate services and help researchers and policymakers understand the circumstances under which these youth's outcomes improve.

- **LGBTQI+ foster and adoptive families:** Recruiting and retaining high-quality foster/adoptive homes is often a challenge and a contributor to the disparities that LGBTQI+ youth face in the child welfare system.<sup>iii,iv</sup> While LGBTQI+ caregivers can be great parents to all children, they also have the potential to be an incredibly valuable and important resource for LGBTQI+ youth by beginning to address the disparities that LGBTQI+ youth face in foster care. Current national estimates of LGBTQI+ foster and adoptive parents are limited because LGBTQI+ status is inferred from their sex and marital status, which underestimates the number of LGBTQI+ parents in general and excludes single parents altogether. More comprehensive and self-reported data on LGBTQI+ foster and adoptive parents would allow stakeholders to tailor recruitment and retention strategies to reach this important population.
- **LGBTQI+ students:** The Civil Rights Data Collection (CRCD) is a critical source of education data for local, state, and federal policymakers, researchers, and other stakeholders who are committed to making evidence-based decisions to serve all students.<sup>v</sup> However, the current structure of the CRCD and other federal data collection efforts prevents us from fully understanding existing discrimination and harassment against LGBTQI+ students in educational settings because sexual orientation and gender identity are not demographics routinely collected in administrative records. Although we lack national data, it is well-established in research studies that LGBTQI+ students endure hostile school environments at higher rates than their peers.<sup>vi</sup> There are many state policies related to LGBTQI+ rights in schools that either affirm (e.g., codified anti-bullying policies that ensure protections on the basis of sexual orientation and gender identity) or, increasingly, discriminate against LGBTQI+ students.<sup>vii</sup> In a climate where some states are increasingly advocating for civil rights infringements against vulnerable youth, the ability to disaggregate data by LGBTQI+ status is invaluable in the pursuit of more equitable institutions. However, as further addressed below, housing sexual orientation and gender identity in students' administrative records could pose privacy and validity concerns, particularly for LGBTQI+ students who are not open with their parents or others about their sexual orientation and/or gender identity. Expanding anonymous surveys—including the Youth Risk Behavior Surveillance Survey (YRBS) and the School Crime Supplement to the National Crime Victimization Survey—to better capture respondents' sexual orientation and gender identity may help address gaps in data that are currently reliant on administrative records.<sup>viii,ix</sup>
- **Gender-nonconforming and transgender students:** The Department of Education's Office for Civil Rights has proposed adding a nonbinary gender category to the 2021-2022 CRCD, in part because data collected from nonbinary populations in some states and school systems is incompatible with the data collection's current structure, which requires data disaggregation based on binary gender categories (male/female).<sup>x</sup> While access to these data would contribute to a more comprehensive understanding of students' experiences of discrimination (and in turn support the protection of these students' civil rights), neither states nor local education agencies (LEAs) have received guidance to collect such data.<sup>xi</sup> Moreover, data on transgender and other LGBTQI+ students would remain nonexistent, as such data are not routinely collected in students' administrative records.

To address some of these data gaps, we provide the following recommendations for federal data collection and research efforts:

**Any efforts to improve data collection for LGBTQI+ individuals must begin with a focus on accurate measurement of gender and sexual orientation.** A key first step in understanding the experiences of LGBTQI+ people is to accurately measure sexual orientation and gender identity. For most data collections to date, gender and sex have been measured with a single question asking whether respondents are male or female. These measures are insufficient to capture the ways in which members of the LGBTQI+ population

describe their own gender, and fail completely to include transgender, nonbinary, and other gender identities. Moreover, for transgender individuals, binary gender items capture neither their sex assigned at birth nor their current gender identity consistently, rendering the items unreliable. More recent research highlights the importance of measuring sex and gender in separate questions and adapting the language of questions to reflect the language used by the population being surveyed.<sup>xii</sup> Increasingly, federal data collection efforts are considering ways to more accurately collect data on sex, gender, and orientation. For example, a recent white paper funded by the National Institute of Health highlights the importance of two-stage measures (i.e., asking sex assigned at birth separately from current gender identity) and of engaging affected communities in designing measures.<sup>xiii</sup>

Unfortunately, many federal data collections do not currently include valid measures of sexual orientation and gender, and, in many cases, require the use of binary gender items.<sup>xiv</sup> These data collections not only include large, nationally representative data collections, but also surveys used to collect common metrics across cohorts of grant recipients. For example, the Department of Health and Human Service's Personal Responsibility Education Innovative Strategies Program (through which Child Trends holds a number of grants)—despite including several initiatives focused on more LGBTQI+ inclusive programming—currently requires grantees to administer surveys using a binary gender item unless a waiver is granted to replace the item.<sup>xv</sup>

**Federal data collection efforts on LGBTQI+ individuals must also assess the impact of adding questions on survey response rates.** When considering inclusion of questions on LGBTQI+ identities in federal surveys, we urge the federal government to consider these questions' impact on survey response rates, especially when conducting research on youth. Optional data collections like the Youth Risk Behavior Survey (YRBS) that include measures of youth sexual orientation may be impacted by state legislation (like Florida's recent HB 1557) that restricts the discussion of sexual orientation.<sup>xvi</sup> While it is valuable to include LGBTQI+ measures on such data collections, this value must be balanced against the potential reduction in ability to collect data from all states.

**Invest in community-based research initiatives to build the data and evidence base.** To address challenges in national data collection and reliable measurement of LGBTQI+ youth's experiences, we recommend that the federal government further invest in community-based participatory research (CBPR). CBPR is a framework through which researchers and community members within the population(s) being studied collaborate to answer questions that are responsive to said community's needs.<sup>xvii</sup> This framework prioritizes mutual trust, the development of culturally appropriate means of measurement, and the unique perspectives of community members, and may enhance the effectiveness of studies—both for researchers and the populations with whom they engage.<sup>xviii</sup> With the current rise in state-level anti-LGBTQI+ legislation that may inhibit broader federal data collection efforts, CBPR can help ensure that comprehensive, accurate data collection is taking place among this vulnerable population.<sup>xix</sup> Additionally, recent literature suggests that U.S. municipalities with more protective sexual and gender minority anti-discrimination laws are also those with more complete *patient-reported* Sexual Orientation and Gender Identity (SOGI) data, which is a sign that data gaps can be filled at a more local or community level.<sup>xx</sup> In funding CBPR efforts, the federal government can deepen its understanding of the disparities faced by LGBTQI+ individuals and potentially bolster localities' legal protections for this group.

**Informing Data Collections Question 2: Please tell us about the usefulness of combined data, and under what circumstances more detailed data may be necessary.**

**To be most useful, data collections should consider which facets of sexual orientation and gender identity are most salient to underlying research questions and should not equate identity with behavior.**

Sexual orientation and gender are both multifaceted. Sexual orientation encompasses not only how someone identifies, but also their sexual behavior and attraction. Gender encompasses an individual's gender assigned at birth, their current gender identity, their gender expression, and their gender label (e.g., whether they identify with labels such as transgender). For many LGBTQI+ individuals, the facets of sexual orientation and gender identity align (e.g., an individual identifying as gay is attracted to and engages in sexual behavior with members of their same gender); however, this is not always the case, particularly for young people for whom identity is still developing. Failing to separate behavior from identity may hide critical disparities and/or risks, particularly for young people.

**Whenever possible, maintaining the labels that participants select is the most appropriate and accurate strategy for understanding LGBTQI+ youth.**

Because of the potential for small sample sizes in collecting data on LGBTQI+ youth—as well as a growing array of labels with which LGBTQI+ individuals identify—many data collections include only three overarching categories: straight (heterosexual), gay or lesbian (homosexual), and bisexual or pansexual; others may also include a category for “other,” or “something else.” While several researchers, including those at Child Trends, have found that young people generally align to one of these categories, a growing number of young LGBTQI+ individuals perceive the lack of inclusion of a broader array of identities as disrespectful, which may lead to higher rates of missing data—not only on sexual orientation items, but for full data collection tools (see, for example, Garrett-Walker, J. J., & Montagno 2021; or Temkin et al., 2016).<sup>xxi,xxii</sup> Moreover, individuals selecting “something else” may identify with a wide range of labels (from aromantic to demisexual), rendering the grouping unreliable for analysis as a cohesive category. Although some data collections (e.g., the National Health Interview Survey) allow individuals who select “something else” to provide their own label, further grouping these individuals to achieve the larger sample sizes required for analysis requires researchers to make assumptions on the meaning of a given identity to each individual, placing individuals into groupings they may not have selected themselves.<sup>xxiii</sup> Allowing respondents to self-identify allows for better representation on surveys, but may lead to sample sizes that are too small for analysis or disclosure. In such cases, allowing respondents to opt into an overarching category (e.g., “Do you identify as part of the LGBTQI+ community?”) allows for retention of data without requiring assumptions during analysis.

## **Informing Data Collections Question 5: How can statistical techniques help identify missing SOGI data, and make statistically rigorous estimates for that missing data? How should qualitative information help agencies analyze what SOGI data might be missing?**

We are pleased to hear of the federal government's interest in investing in statistical techniques and qualitative information to help fill gaps in missing data around LGBTQI+ children, youth, and families. We offer three recommendations from our own work to guide these efforts:

**When possible, provide opportunities for individuals to self-report.** Self-report options in data collection can help agencies address missing SOGI data, allow for individual autonomy in self-identifying, and account for potential fluidity in gender and sexual identity development over time. Young people, especially, solidify their identities throughout adolescence as they explore what gender and sexual orientation mean to them, to the people around them, and within society.<sup>xxiv,xxv</sup> When data and analyses treat LGBTQI+ identity as an unchanging variable, data collection may miss potentially important equity considerations. As we have previously found with race and ethnicity data, we believe data that paint an incomplete picture of participants' experiences may lead researchers and policymakers to miss important strengths or disparities across identities.<sup>xxvi</sup>

**Account for the continued evolution of terminology and strive to understand how individuals choose to identify.** The words that young people use for their sexual orientations and gender identities have become

increasingly multifaceted and shifted in popularity over time.<sup>xxvii</sup> For example, the term “nonbinary” has become more popular than the very similar “genderqueer.” Terms have also shifted in popularity as communities think more deeply about the impacts of language. For example, phrases like “biological female” are being recognized as problematic due to their lack of accuracy and potential to invalidate a person’s identity.<sup>xxviii</sup> Federal data collection could fill a large gap in our current research by investing in qualitative data to help the field understand the relationships between these labels, why an individual chooses them, and what contexts and meanings are evoked by choices in labeling.

**Fill data gaps through data science.** In addition to the promises of mixed methods and qualitative data approaches, data science offers promising methods of nontraditional data collection. LGBTQI+ populations pose special data collection challenges because of small populations and potential difficulties in recruitment. However, nontraditional approaches—including the use of social media—have the potential to mitigate some of these challenges. Social media is widely used to recruit LGBTQI+ and other hard-to-reach populations, and web-scraping can be used to augment existing data collection efforts by building sampling frames. Potentially even more transformative research uses social media itself as a data source. Examples include the use of Twitter to understand health concerns in LGB populations, the use of social media posting to understand LGBTQI+ community building, and the use of web-scraping to understand representation of LGBTQI+ issues in the news media.<sup>xxix,xxx,xxxi</sup> Future federal data collections could consider the potential of social media, news media, and other nontraditional data sources as methods of augmenting traditional quantitative and qualitative methods.

**Leverage social media for recruitment.** Recent research has used social media to recruit LGBTQI+ populations for surveys.<sup>xxxii,xxxiii,xxxiv</sup> Social media recruitment offers the potential for future federal data collections to reach targeted groups in the LGBTQI+ community for survey recruitment. This might be particularly important for recruiting very small and harder-to-survey populations (such as those who identify as both LGBTQI+ and Native American, or LGBTQI+ immigrants).

**Privacy, Security, and Civil Rights Question 3: Once SOGI data have been collected for administrative or statistical purposes, are there considerations that Federal agencies should be aware of concerning retention of these data? Please tell us how privacy or confidentiality protections could mitigate or change these concerns.**

Preventing the disclosure of data is a large and active field of research, and one in which the federal government is well versed. One important consideration is how SOGI measures may impact disclosure prevention for survey and data collection participants. Additionally, when we consider data collection of SOGI items for youth respondents, we must account for how data collection requirements intersect with the Family Educational Rights and Privacy Act (FERPA) and parental notification policies. Data collections that rely in part on administrative records (such as the CRDC) must also consider the ways in which expanding data collection of SOGI items might impact students’ privacy. Under FERPA, it is unclear whether schools can legally keep a student’s gender identity private from their parents if the student changes their official gender marker.<sup>xxxv,xxxvi</sup> This raises the concern that, if the CRDC alters requirements to include incident reporting disaggregated by gender identity or sexual orientation, schools would then include such demographics in students’ administrative records. Under FERPA (or state law in states with strong parental notification legislation), this might cause additional risk of disclosure of students’ gender identities to their parents without their knowledge or consent.

## Concluding Thoughts

As discussed above, we believe that further data collection is critical to addressing the gaps in our knowledge and understanding of the circumstances, challenges, and strengths of LGBTQI+ children, youth, and families. Such efforts should account for the unique needs and contexts of youth in particular: Their identities are solidifying during adolescence and may not be fully realized until later in life. As a result, LGBTQI+ youth are at unique risk due to disclosure of data (e.g., if they have unsupportive family contexts) and have greater overall health risks (e.g., suicide, drug use, etc.) due to a lack of acceptance.

Child Trends welcomes the opportunity to answer any questions related to these comments or to support the subcommittee's efforts on this body of work. Please contact Elizabeth Jordan ([ejordan@childtrends.org](mailto:ejordan@childtrends.org); 240-719-8199) if we can be of further assistance.

Sincerely,

Carol Emig  
President

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