



March 3, 2023

OMB Desk Officer for ACL
Office of Information and Regulatory Affairs
Office of Management and Budget
New Executive Office Bldg.
725 17th St. NW, Rm. 10235
Washington, DC 20503
Submitted via reginfo.gov

RE: Public Comment in Response to Agency Information Collection Activities; Submission for OMB Review; Public Comment Request; of the State Councils on Developmental Disabilities (RIN 2023-02016)

To Whom It May Concern,

On behalf of the Human Rights Campaign's more than three million members and supporters nationwide, we write in response to the above-captioned information collection proposed by the Administration for Community Living (ACL) regarding its Program Performance Report developed for use by State Councils on Developmental Disabilities under the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (DD Act Councils).¹

The Human Rights Campaign (HRC) is America's largest civil rights organization working to achieve lesbian, gay, bisexual, transgender, and queer (LGBTQ) equality. By inspiring and engaging all Americans, HRC strives to end discrimination against LGBTQ+ citizens and realize a nation that achieves fundamental fairness and equality for all. As an advocate for LGBTQ+ individuals, HRC believes that all people—including LGBTQ+ people with disabilities—deserve to be counted and have their lived experiences meaningfully considered as part of the federal government's data collection efforts. We therefore write in support of this proposal.

DD Act Councils receive funding from ACL to identify pressing needs for people with development disabilities in their regions and generate data to be used for programmatic and funding decisions through their Program Performance Reports—including through demographic items allowing for insight on needs within specific communities. LGBTQ+ people are a growing population in the United States, living in every state and county and reflecting the breadth of diversity and lived experiences of the communities in which they live. Data from the Behavioral Risk Factor Surveillance System indicate that LGBTQ+ adults, and transgender adults in

¹ Agency Information Collection Activities; Submission for OMB Review; Public Comment Request; of the State Councils on Developmental Disabilities, 88 Fed. Reg. 6742 (Feb. 01, 2023).

particular, are significantly more likely than non-LGBTQ+ adults to self-report having at least one disability.²

Federal agencies have long been researching and collecting information on LGBTQ+ people like what is being proposed here.³ For decades, government and other researchers have studied sexual orientation and gender identity (SOGI) and found that it is more than possible to measure these concepts and obtain quality data; and likewise that respondents largely do not find this information to be so sensitive that they would not provide it.⁴ In a recent report on the collection of SOGI information in the survey context, the Office of Management and Budget (OMB) highlighted guiding principles that have emerged out of that work to support the ongoing collection of SOGI information, including that collected data should have utility, be in support of an agency's mission, and done with emphasis on protecting respondents' confidentiality.⁵ The proposal here aligns with OMB's recommendations and these longstanding agency practices, and would serve to advance equity for LGBTQ+ people by ensuring necessary evidence can be collected to allow for their full inclusion in programs like those supported by DD Act Councils.⁶

Additionally, we note that the proposed SOGI items here are consistent with recommendations issued by a panel formed by the National Academies of Sciences, Engineering, and Medicine on SOGI measurement in federal surveys and other instruments (the "NASEM Panel").⁷ It is our opinion that the benefits of this proposed collection would therefore outweigh any potential increased burden on respondents and other relevant entities, given ACL's implementation of well-tested measures and in light of our knowledge on LGBTQ+ people and their experiences with disabilities generally. While it is not the case that only certain populations are impacted by developmental disabilities, data on whether and how individuals belonging to specific communities—including on the intersectional experiences of groups like LGBTQ+ people of color and others historically experiencing the brunt of marginalization and exclusion from government programs—would be necessary to ensure the DD Act Councils fulfill their purposes. We would finally also encourage ACL to continue exploring improvements to its collection of SOGI data in the future, given the NASEM Panel and others' recommendations on needed research on SOGI measures and response options that would allow even more individuals to be counted in collected data exactly as they identify.⁸

Thank you for the opportunity to submit comments in favor of this critical step toward ensuring LGBTQ+ people are consistently and safely included in the government's data collection efforts.

² Human Rights Campaign Found., *Understanding Disability in the LGBTQ+ Community*, HUMAN RIGHTS CAMPAIGN (Aug. 12, 2022), <https://www.hrc.org/resources/understanding-disabled-lgbtq-people>.

³ See generally NAT'L ACADEMIES OF SCIENCES, ENGINEERING, & MED., *MEASURING SEX, GENDER IDENTITY, AND SEXUAL ORIENTATION* (2022), <https://nap.nationalacademies.org/catalog/26424/measuring-sex-gender-identity-and-sexualorientation>.

⁴ *Id.* at 52–55, 67.

⁵ OMB, *RECOMMENDATIONS ON THE BEST PRACTICES FOR THE COLLECTION OF SEXUAL ORIENTATION AND GENDER IDENTITY DATA ON FEDERAL STATISTICAL SURVEYS 3* (2023), <https://www.whitehouse.gov/wp-content/uploads/2023/01/SOGI-Best-Practices.pdf>.

⁶ See NAT'L SCIENCE & TECHNOLOGY COUNCIL, *FEDERAL EVIDENCE AGENDA ON LGBTQI+ EQUITY 3* (2023), <https://www.whitehouse.gov/wp-content/uploads/2023/01/Federal-Evidence-Agenda-on-LGBTQI-Equity.pdf>.

⁷ NAT'L ACADEMIES OF SCIENCES, ENGINEERING, & MED., *supra* note 3.

⁸ See, e.g., *id.* at 132–33 (recommending assessment of nonbinary response options and other possible improvements to gender identity measures), 145 (recommending research on measures of intersex status).