

Congress of the United States

Washington, DC 20510

October 16, 2023

Dr. Miguel Cardona
Secretary
U.S. Department of Education
400 Maryland Avenue SW
Washington, DC 20202

RE: Docket ID ED–2023–SCC–0053, Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; 2024–2025 Free Application for Federal Student Aid (FAFSA)

Dear Secretary Cardona:

As Chair of the Congressional Equality Caucus and Co-Chairs of the Transgender Equality Task Force, we urge the Department of Education to carry out additional revisions to the FAFSA Form Demographic Survey to gather accurate and inclusive data on LGBTQI+ students applying for federal financial aid while safeguarding their privacy.

Surveys show that LGBTQI+ people face inequities in educational attainment and economic security compared to their non-LGBTQI+ counterparts. More accurate data on sexual orientation, gender identity, and sex characteristics (SOGISC) are necessary to better inform policies to address these inequities. However, the current proposed FAFSA form lacks questions relating to sexual orientation and sex characteristics. In addition, the current question relating to gender does not adequately collect information relating to transgender status.

We encourage the Department to shift demographic data—including questions about gender identity—to a voluntary, supplemental survey that will more adequately protect students' privacy. Asking gender identity questions in a voluntary supplement, like the one that the Department piloted in 2022, will allow the Department to employ a two-step approach that more accurately captures an applicant's transgender identity while mitigating the risk of inadequate privacy safeguards. Particularly, as parents often play a significant role in filling out the FAFSA Form, students may purposefully misidentify themselves to avoid the negative impacts on health and well-being that are associated with inappropriate disclosure to their family or community. While the Department's proposed FAFSA Form encourages students to select the gender with which they identify, the potential data-sharing with parents and primary, secondary, and higher education officials may have a chilling effect on accurate completion and may deter transgender students from pursuing federal financial aid. Moving demographic questions, including those regarding gender identity, to a separate voluntary supplement that includes a "decline to answer" option for both gender identity and transgender status would allow for heightened privacy requirements on the supplemental survey and safeguard LGBTQI+ student data, incentivizing accurate completion of the FAFSA Form. This shift would still align with the Department's obligations to collect sex data from applicants under the FAFSA Simplification Act of 2021

while mitigating the unintended consequences associated with inappropriate disclosure of a student's gender identity.

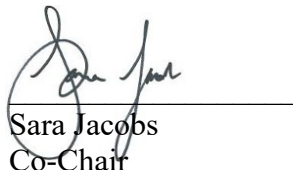
Additionally, we urge the Department to take steps to collect demographic data about all LGBTQI+ individuals applying for federal aid. The Department should take the necessary steps to test and add questions about students' sexual orientation and variations in sex characteristics to the supplemental voluntary survey. In alignment with the privacy concerns, these should also include a "decline to answer" option.

As members of Congress, we are committed to ensuring we have comprehensive data about LGBTQI+ students to better inform our work to address the economic and educational obstacles that LGBTQI+ students face. We urge the Department to maximize the utility and inclusivity of the FAFSA's data collection measures by expanding questions to include transgender status, sexual orientation, and sex characteristics in a voluntary, supplemental survey that will ensure the privacy and confidentiality of applicants' demographic data.

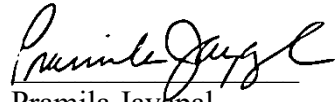
Sincerely,



Mark Pocan
Chair
Congressional Equality Caucus



Sara Jacobs
Co-Chair
Trans Equality Task Force



Pramila Jayapal
Co-Chair
Trans Equality Task Force