

COVER LETTER

Re: American Community Survey Methods Panel Test

To Whom It May Concern,

We write to offer public comment on the Census Bureau's American Community Survey (ACS) Methods Panel: 2024 Sexual Orientation and Gender Identity (SOGI) Test published on 04/29/24, Document Citation: 89 FR 33314. Jonathan Schwabish is a senior fellow in the Urban Institute's Income and Benefits Policy Center and primary investigator on the Urban Institute's Do No Harm Project, including the guide on Collecting, Analyzing, and Reporting Gender and Sexual Orientation Data (Schwabish et al. 2023). Katie Visalli is a research analyst in the Urban Institute's Housing Finance Policy Center and lead author on recent work investigating homeownership rates by sexual orientation and gender identity (Visalli et al. 2024). We are employed by the Urban Institute, a nonprofit research and policy organization, but the views expressed here are our own and do not represent the Urban Institute, its trustees, or its funders.

We would like to provide a brief letter of supporting evidence and suggestions regarding Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; 2024 American Community Survey (ACS) Sexual Orientation and Gender Identity Test:

1. The Census Bureau's proposed 2024 test of sexual orientation and gender identity questions for the American Community Survey is a crucial step in understanding LGBTQIA+ experiences.
2. To be inclusive of intersex populations and people not assigned "Female" or "Male" at birth, the Bureau should expand answers for "sex assigned at birth" to include a third option.
3. The Bureau should carefully consider the ordering and phrasing of the terms to define gender identity and expression.
4. The current in-text definition of Straight in the sexual orientation question implies an exclusion of bisexual and other sexual orientations. Changing or removing this definition could make the options more inclusive.

For questions or to schedule a follow-up dialogue, please reach out to jschwabish@urban.org and kvisalli@urban.org.

Sincerely,

Katie Visalli
Jonathan Schwabish

MAIN COMMENT TEXT

We strongly encourage the Office of Management and Budget to approve the request put forward by the Department of Commerce so the Census Bureau can continue with their testing and exploration of Sexual Orientation and Gender Identity and Expression (SOGIE) questions in the American Community Survey (ACS). The research and policy communities have limited understanding of the experiences of people who identify as LGBTQIA+ with regards to economic and social policy, due primarily to a lack of data that includes SOGIE information. In previous research into housing experiences of LGBTQIA+ populations using the Census Bureau's experimental Household Pulse Survey, for example, Urban researchers found that there is a 20-percentage point gap in homeownership rates for people who identify as LGBTQIA+, and that 5 percentage points of this gap cannot be explained by age, income, education, marital status, parenthood or state (Visalli et al. 2024). The same paper also found a lower relative importance of marital status in income and homeownership rates for LGBTQIA+ people, that is marriage increases income and the chance of homeownership to a lesser degree for LGBTQIA+ people than it does for straight and cisgender people. Yet, the Census Pulse data are also known to have imputation issues that limit its usefulness for broader analyses (Jesdale 2021). As one of the most widely used surveys to research experiences of US individuals and families, the ACS would provide insights into geographic dispersion, mobility, financial health, household composition and much more. It would allow researchers to understand more about why previously uncovered disparities exist and inform policy solutions to support LGBTQIA+ people.

We urge the Census Bureau to include a third option for the question “What sex were you assigned at birth” in the question used to determine respondents’ gender identity. Currently, the Census Bureau uses what is known as the two-step method to ask survey respondents about their sex assigned at birth and current gender identity. As shown in Attachment I SOGI - Field Test Final Wording, the two-step question first asks the respondent to document their sex assigned at birth (with options for Male and Female), and then ask for the respondent's current gender identity with several options:

What sex <were you/was Name> assigned at birth?

1. Male
2. Female

(Show flashcard) Using this list, what is <your/Name's> current gender?

1. Male
2. Female

3. Transgender
4. Nonbinary
5. Uses a different term [(If 'use a different term') What is that term? (write-in)]

The two-step question first is used elsewhere, including the National Health Indicator Survey and National Crime Victimization Survey (Schwabish et al. 2023), and was the recommended method from the National Academies of Sciences, Engineering, and Medicine (NASEM) consensus 2022 report, "Measuring Sex, Gender Identity, and Sexual Orientation" (NASEM, 2022).

Limiting the first question in the two-step method to only male or female at birth options excludes intersex respondents and those with an "X" marker for sex on their birth certificate. The intersex population is very small, estimated by medical researchers to be somewhere between 0.0018 and 1.7 percent of people (Sax 2002) and research is even more limited for intersex people than for other LGBTQIA+ populations (Zeeman and Aranda 2000). The Census Bureau should learn from this failure to count intersex people by allowing for intersex identification in this test. In addition, as of May 2023, 15 states plus the District of Columbia allow parents to place an "X" marker on their child's birth certificate rather than assigning "F" or "M" (USBirthCertificates.com 2024). Once these children become old enough to be counted in the ACS, binary options for the question 'sex assigned at birth' will not be sufficient.

We propose alternative wording and ordering for the options to the sex assigned at birth and current gender identity questions. It is not clear why "Male" is listed first and coded one (1) and "Female" is listed second and coded two (2) in the standard ACS surveys. As by both estimates of population size and alphabetically "Female" would naturally occur first in the list. In addition, the word "Transgender" is an adjective, not a noun, and thus its current standalone use is not grammatically accurate. It would be more appropriate to list "Transgender Female" and "Transgender Male" as separate and distinct options. Another alternative is to aggregate into "Transgender Female or Transgender Male" if population sizes are too small to report these categories separately while maintaining privacy and protection standards.

We encourage the Census Bureau to reconsider the in-question definition of "Straight" in the sexual orientation question. The current options in the test question are as follows:

1. Gay or lesbian
2. Straight, that is not gay or lesbian
3. Bisexual
4. Uses a different term

The definition of Straight as a negation of Gay implies only two sexual orientations that are opposites. While not everyone is familiar with sexual orientation terms and labels (Guyan 2022; Schwabish 2023), and thus placing categories like “Asexual” or “Bisexual” at the top of the answer list may not be advisable, the current phrasing implicitly denies the existence of other options. We propose defining all options for the sexual orientation question with something like the below list:

1. Gay or lesbian, that is attraction or romantic preference for the same gender
2. Straight, that is not gay or lesbian, that is attraction or romantic preference for the opposite gender
3. Bisexual, that is attraction or romantic preference for multiple genders or regardless of gender
4. Uses a different term

Another option is to not define these terms in the question.

1. Gay or lesbian
2. Straight
3. Bisexual
4. Uses a different term

The Bureau’s test of SOGIE questions for the ACS is an immensely important step forward in data equality. Sexual Orientation and Gender Identity are protected characteristics under Title VII; unlike other protected characteristics, however, SOGIE data are currently limited in the United States, reducing the ability of policymakers and the public to measure observed differences and offer policy recommendations. In addition, there has been a record wave of state-level legislation that aims to limit the rights of LGBTQIA+ people in 2024 (ACLU 2024). The impact of these bills on LGBTQIA+ people is largely unknown, due in part to this lack of data. The inclusion of SOGIE characteristics in the ACS will open doors for nonprofits, community-based organizations, and research and policy organizations to better understand and support LGBTQIA+ populations. We thank the Census Bureau for the opportunity to comment on this proposed test and share our excitement for the future inclusion of SOGIE in the ACS.

CITATIONS

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