

May 22, 2025

Christopher S. Marcum
Desk Officer for National Science Foundation
U.S. Office of Management and Budget

Suzanne H. Plimpton
Reports Clearance Officer
National Science Foundation

Via reginfo.gov and email

RE: Agency Information Collection Activities; Submission for OMB Review; Comment Request; 2026 Survey of Earned Doctorates (**FR Doc. 2025-08385**)

Dear OMB and NSF Officials,

Thank you for the opportunity to comment on the National Science Foundation's (NSF) National Center for Science and Engineering Statistics' (NCSES) information collection request related to the 2026 Survey of Earned Doctorates (SED). See 90 FR 20321 (May 13, 2025).

My comments today follow an extensive line of public comments over the past seven years regarding the importance and feasibility of sexual orientation and gender identity (SOGI) questions in NCSES' surveys, including methodological input that facilitated these questions' successful field testing and their introduction into the SED. At times these previous comments were submitted on behalf of a coalition of 17 major NSF stakeholders, including the American Association for the Advancement of Science (AAAS), and at other times on behalf of 1,700 scientists including Nobel laureates, members of the National Academies, university officials, and a broad range of constituents across the U.S. scientific workforce.

NCSES Should Immediately Reinstate the Sexual Orientation Question in the 2026 SED

On March 27, NCSES submitted a non-substantive change [request](#) seeking to remove SOGI items from the SED. Inconsistent with OMB [guidance](#), this request failed to explain (or even identify) the proposed changes, providing only a revised survey instrument with the SOGI questions removed. Following my [request](#) the next day that a justification be made available, NCSES submitted a [memorandum](#) on March 31, citing Executive Order (EO) 14168, as well as the revocation of EOs 13985 and 14075 by EO 14148, as its rationale.

While EO 14168 explicitly bans gender identity (GI) data collection, no federal directive has banned sexual orientation (SO) data collection. Based on OMB's February 11 implementation guidance for EO 14168, agencies across the government have rolled back GI data – but retained SO data – in their surveys, including the Census Bureau's Household Trends & Outlook Pulse Survey ([HTOPS](#)), the Department of Housing & Urban Development's American Housing Survey ([AHS](#)), Department of Justice's National Crime Victimization Survey ([NCVS](#)), and the Department of Health & Human Services' Behavioral Risk Factor Surveillance System ([BRFSS](#)) surveys, among others. NCSES stands out as the only known instance of an agency removing SO from its surveys in response to recent EOs.

Removal of Sexual Orientation Exceeds the Scope of Recent EOs and Likely Violates Federal Law

NCSES has justified its SO rollback by citing EO 14148. However, while EO 14148 rescinded prior EOs 13985 and 14075 that provided relevant policy support for agencies "[t]o advance the responsible and

effective collection and use” of SOGI data, the mere removal of this policy support does not invalidate previously OMB-approved questions. As you know, the Paperwork Reduction Act (PRA) and Foundations for Evidence-Based Policymaking Act (Evidence Act) require NCSES to ensure its data collections are methodologically sound, aligned with OMB’s Statistical Policy Directives (SPD), and meet demonstrated stakeholder needs. OMB [Memorandum M-19-23](#) and the [Trust Regulation](#) reaffirm that NCSES’ survey decisions must be scientifically rigorous and responsive to stakeholder input, free from political interference.

Under OMB’s SPD-1, the utility of a question in NCSES’ surveys is defined by its relevance to data users – including stakeholders, researchers, and policymakers – not by political whims or the EOs of a current administration. This standard for SO’s utility was clearly met when NCSES added the item to the SED, and can be evidenced by stakeholders’ extensive public advocacy around SO data and the seven-year administrative record. The revocation of EOs 13985 and 14075, which had merely provided policy support to facilitate SOGI testing, is insufficient justification for the removal of an evidence-based SO item from the SED.

NCSES’ rationale for removing SO is also internally inconsistent. While the agency is moving forward with implementing more detailed SPD-15 race/ethnicity data – a positive step for NCSES’ surveys – these SPD-15 race/ethnicity changes are rooted in the same now-rescinded equity-related EOs that NCSES cites, namely EO 13985. If the rescission of EOs 13985 and 14075 invalidates SO data collection – even though no other agency has interpreted this to be the case – then by NCSES’ same logic it should also invalidate SPD-15 race/ethnicity data as well. NCSES’ unevenly applied logic undermines the agency’s credibility.

For these reasons, NCSES’ removal of a stakeholder-needed, robustly-vetted SO question – using internally inconsistent logic, without any federal directive requiring it to do so, and in the absence of any new evidence of harm to quality or utility – raises serious integrity concerns that could be construed as politically motivated or deemed “arbitrary and capricious” under the Administrative Procedure Act (APA). These concerns are heightened by the [documented](#) hostility and integrity lapses that NCSES has previously shown toward a SO question. While other agencies have continued to collect SO data, NCSES’ removal of such data is a clear outlier departing from standard federal statistical practice and undermining evidence-based decision-making.

Conclusion

NCSES’ removal of SO from the SED lacks a proper legal or scientific basis and exceeds the scope of any recent EO. The decision is arbitrary, inconsistent with OMB policy, and departs from the actions of other federal statistical agencies. The agency’s justification invoking EO 14148 is contradictory, and its removal of SO directly conflicts with its own factual findings affirming the question’s utility, quality, and appropriateness, in likely violation of the APA, Evidence Act, and PRA. NCSES should reinstate SO in the 2026 SED.

Thank you for your consideration.

Respectfully submitted,



Jonathan B. Freeman, Ph.D.
Associate Professor of Psychology
Columbia University