

Public Comments Received During the 60-day Comment Period

April 2023

National Teacher and Principal Survey of 2023-2024 (NTPS 2023-24) Data Collection

ED-2023-SCC-0019

Comments on FR Doc # 2023-01157

NCES and the staff of The National Teacher and Principal Survey want to thank all public commenters for your feedback responding to a request for comments on NTPS 2023-24 published in the Federal Register. The National Center for Education Statistics (NCES) appreciates your interest in our work. The Paperwork Reduction Act (PRA) provides an opportunity for an open and public comment period where comments on collections can be made. We are grateful for this process and your comment and hope that you will continue to follow our work.

Document: ED-2023-SCC-0019-0006

Name: LeAnn Curry, Executive Director, Association for Career and Technical Education

On behalf of the Association for Career and Technical Education (ACTE), the nation's largest not-for-profit association committed to the advancement of education that prepares youth and adults for career success, I'm writing in response to this request for comment for the National Teacher and Principal Survey (NTPS) 2023-24 Data Collection.

The NTPS plays a vital role in providing data on CTE teacher employment and CTE offerings in public schools. This data enables CTE leaders and policymakers to better understand the CTE teacher workforce and ultimately to better serve students across the country. We appreciate the ways in which the NTPS 2023-24 continues the prior surveys' inclusion of CTE and related topics, specifically:

- Data collection about opportunities such as specialized career academies, CTE courses and work-based learning in Public School Questionnaire Q4-4.
- Questions about teachers' sources of income outside of the education system and debt forgiveness in Public School Teacher Questionnaire Q8.
- Data collection about goals, including occupational or vocational skills, in Principal Questionnaire Q2-1.

We also applaud the ability to disaggregate NTPS data that IES has provided through its DataLab tool. The ability to disaggregate the data collected in the NTPS helps CTE leaders and policymakers understand the CTE educator workforce – its demographics, education level, credential types, income, subject-matter specific codes and full-time/part-time status – and to make resulting policy and programmatic changes where needed. For instance, the NTPS has helped the field understand the state of diversity in the CTE teacher workforce and explore solutions.

Recommendations

ACTE would like to make the following recommendations for ways that the NTPS 2023-24 could be even more inclusive of CTE and provide important information about the CTE educator workforce and CTE public school offerings.

Area Technical Centers: We recommend that IES clarify that area technical centers (ATCs) are included in the sampling frame of the NTPS 2023-24. ATCs are educational institutions that serve secondary and sometimes postsecondary learners with CTE programs across a county, educational service district or workforce region. ATCs are crucial to the delivery of CTE education in the United States, with more than 1,400 ATCs in 39 different states and territories.¹

¹ <https://areatechnicalcenters.org/>

In addition to ensuring the inclusion of ATCs in the sample, we recommend that the Public School Questionnaire include a new question in the General Information About This School section or in the Students and Classroom Organization section Q4-4 that asks whether students take courses at other institutions, with response options including ATCs and postsecondary institutions.

Subject Matter Codes for CTE: We recommend that NTPS update its subject-matter specific codes to better match how CTE program areas are labeled and organized in the field. In the 2017-18 version of the Public School Teacher Questionnaire, 17.5% of CTE respondents chose code 256 for “Other career or technical education” because the available responses did not match their subject-matter area. Expanding the subject-matter specific codes will help CTE leaders and policymakers better understand the state of the CTE educator workforce within specific program areas. We particularly recommend that the subject-matter specific codes be expanded to include Transportation (including automotive technology, diesel mechanics, and aircraft and marine technology); Education and Training; and Information Technology (including networking and systems administration).

Teacher Vacancies: We recommend that the NTPS 2023-24 include questions about teacher vacancies in subject-matter specific codes in the Public School and/or Principal Questionnaires. Teacher vacancies are an increasingly problematic issue for schools across the United States. A recent working paper by the Annenberg Institute at Brown University found that at least 36,500 and up to 52,800 teacher positions remain unfilled throughout the nation.² In addition, 28% of public schools reported being understaffed in CTE programs in August 2022.³ Prior editions of NTPS asked about teacher vacancies, including the 2015-16 survey, which provided this data by subject-matter specific codes. We recommend that the NTPS 2023-24 collect vacancies by subject-matter specific codes to better understand the specifics of teacher vacancies and where policymakers and practitioners can target their efforts.

In addition, we recommend that IES ensure that data from these questions be accessible through the DataLab to allow for disaggregation and analysis. The data from the 2017-18 Principal Questionnaire about teacher vacancies is not accessible; this data would be useful to CTE and other fields.

Industry Experience: We recommend that IES modify the Public School Teacher Questionnaire to capture more details about teachers’ work experience prior to their teaching career as well as work they engage in, in addition to their teaching job, during the summer and the school year. In the CTE educator field, instructors often have industry experience before transitioning into a teaching career. In fact, many states’ licensure requirements require work experience for a license to teach in CTE program areas.⁴ Data from the NTPS 2015-16 shows that 41% of new full-time CTE public school teachers had previously worked outside the education system, a significantly higher number than all other teachers. In addition, some CTE teachers continue to work in industry after joining the teaching profession. According to the NTPS 2017-18, 26% of full-time public school CTE teachers worked a second job outside of the school system, a higher number than all other teachers except arts or music teachers.

To collect more data about CTE teachers’ industry experience, the Public School Teacher Questionnaire could bring back questions from the 2020-21 version, which asked the following of teachers about their occupations prior to teaching:

- Q5-2. What was your MAIN activity the year before you began teaching at the K-12 or comparable ungraded level? (check box)
- Q5-3a. What kind of work did you do, that is, what was your occupation? (write in)
- Q5-3b. What were your most important activities or duties on that job? (write in)
- Q5-3c. How would you classify yourself on that job? (check box)

² <https://edworkingpapers.com/sites/default/files/ai22-631.pdf>

³ <https://ies.ed.gov/schoolsurvey/spp>

⁴ https://cte.careertech.org/sites/default/files/files/resources/CTE_Policy_Scan_Requirements_Licensure2013.pdf

Similar questions could be asked of current teachers who indicate they have other sources of income during the summer or school year. To reduce burden, the questions could be streamlined to remove write-in options or a new question could be asked such as “Do you now or have you ever worked in a job that is relevant to the subject-matter specific code that you teach?”

Part-time Teacher Certification: We recommend that the NTPS 2023-24 expand the response options in the Public School Teacher Questionnaire Q4-2a about teacher certification to include a response option for individuals who teach under a part-time or adjunct certification. As the teacher vacancy issue across the United States becomes more challenging, hiring part-time educators is a feasible solution, particularly for CTE programs where it is essential that instructors maintain up-to-date industry expertise. These types of certifications are available in Kentucky, where it is called an Adjunct Instructor Certificate, and in Pennsylvania, where it is known as a Resource Specialist Permit.

Time Spent on CTE and Career Exploration: We recommend that the NTPS 2023-24 modify questions to ask how many teaching hours are spent in CTE and career exploration. This includes expanding Public School Teacher Questionnaire Q2-11, which asks how many minutes were spent teaching a list of subjects, to include CTE and career exploration. In addition, Public School Questionnaire Q3-6, which asks how many minutes per day eighth-grade students spend on a list of activities, could also be expanded to include minutes spent in CTE and career exploration. Middle grades career exploration requirements are an emerging trend across states, and Perkins V federal CTE legislation recently lowered the floor for spending Perkins funds down to grade 5. Learning more about the time eighth-grade students spend focusing on these activities is critical for understanding the implementation of middle grades CTE and career exploration.

Career and Technical Student Organizations: We recommend that the NTPS 2023-24 modify Public School Teacher Questionnaire Q8-4 to be inclusive of career and technical student organizations (CTSOs) as a source of compensation that a teacher can earn from the public school system. CTSOs are intracurricular organizations for individuals enrolled in CTE programs that engage in activities as an integral part of the instructional program, including competitive events, service learning and leadership development. More than 2 million students participate in CTSOs across the United States.⁵ Many CTSO advisors receive stipends from the school system to recognize the extra hours they devote to the CTSO chapter.

We appreciate your time and consideration of these comments and recommendations. Should you have any questions or would like to discuss the issues raised in this letter further, please do not hesitate to contact ACTE Research Director Catherine Imperatore at cimperatore@acteonline.org.

Sincerely,
LeAnn Curry
Executive Director
ACTE

Dear Ms. Curry,

Thank you for your interest in NTPS and for reaching out with your comments and suggestions.

We will explore the addition of additional questions on the locations of dual or concurrent enrollment opportunities on future cycles on the NTPS, depending on the prevalence of these programs.

A small number of ALL teachers selected 56 for “Other career or technical education,” so we do not believe it

⁵ <https://www.ctsos.org/ctsos-2/>

is appropriate to further disaggregate this category at this time. Similarly, we do not intend to ask about additional types of certification at this time.

NTPS collects data on teaching vacancies, including difficulty hiring teachers, through rotating modules on the School Questionnaire. These questions were part of the 2015-16 and 2020-21 administrations of the NTPS, but are not part of the 2017-18 or upcoming 2023-24 collections, in order to reduce burden on schools. Please note that these data from 2015-16 and 2020-21 are available through DataLab. Similarly, detailed information about early career teachers is part of a rotating module that was part of the 2015-16 and 2020-21 administrations of the NTPS, but is not part of the 2017-18 or upcoming 2023-24 collections, in order to reduce burden on teachers. Another NCES data collection, the School Pulse Panel, collected some data from schools about staffing in October 2022. To see their results, please see the School Pulse Panel dashboard at <https://ies.ed.gov/schoolsurvey/spp/>.

Teachers may provide information about supplemental income types not explicitly listed on the questionnaires, and we do not plan to add further additions at this time.

Please note that Public School Teacher Questionnaire Q2-11 is asked to teachers in self-contained classrooms (who are primarily in elementary schools), rather than teachers in departmentalized instruction, so we do not believe it is appropriate to add CTE to this item. For Public School Questionnaire Q3-6, we include a limited number of subject areas since, during cognitive testing, many schools had difficulty answering questions about elective classes that were taken by subsets of students or only taken for a portion of the school year (e.g., one trimester).

Thank you for your comment and your ongoing interest in NTPS and the work at NCES.

Sincerely,
Maura Spiegelman
National Teacher and Principal Survey
Cross-Sectional Surveys Branch
National Center for Education Statistics
U.S. Department of Education
Office: 202-245-6581

Document: ED-2023-SCC-0019-0007

Name: The Williams Institute

Dear Director of the Information Collection Clearance Division:

We are grateful for the opportunity to provide comments on the Department of Education’s notice regarding revision of information collection through the 2023-2024 National Teacher and Principal Survey (the “NTPS”). See 88 Fed. Reg. 3,981 (Jan. 23, 2023).

The undersigned are scholars affiliated with the Williams Institute at the UCLA School of Law. The Williams Institute is dedicated to conducting rigorous and independent research on sexual orientation and gender identity (“SOGI”), including on the demographics and experiences of lesbian, gay, bisexual, and transgender (“LGBT”) people. The Williams Institute collects and analyzes original data, as well as analyzes governmental and private data, and has long worked with federal agencies to improve data collection on the U.S. population. These efforts include producing widely-cited best practices for the collection of SOGI information on population- based surveys.⁰

We offer this submission to provide support generally for inclusion of sexual orientation and gender identity measures in the 2023-2024 NTPS. In its Comment Request, the National Center for Education Statistics (“NCES”) of the Department of Education (“The Department”) posed five questions, including: “(1) is this collection necessary to the proper functions of the Department.”⁰ We conclude that the proposal to include SOGI measures is necessary to the proper functions of the department because LGBT people represent a significant and diverse portion of the population, research shows that LGBT teachers and principals may have unique experiences in the workplace which would be better understood through survey data, public policy is in favor of LGBT data collection, and suitable measures have already been identified for federal population surveys.

1. LGBT people represent a significant and diverse population

LGBT-identified people comprise approximately 4.5% of the U.S. adult population and 9.5% of youth between ages 13 and 17.⁰ Applying these figures to the U.S. population, we estimate that approximately 11 million adults and 2 million youth ages 13 to 17 in the U.S. identify as LGBT. These estimates include approximately 1.3 million adults and 300,000 youth ages 13 to 17 who are transgender.⁰

We also know from the data that the LGBT population is remarkably diverse and that the experiences of LGBT people are not uniform but, rather, are shaped by factors such as race, ethnicity, socioeconomic status, geographical location, primary language, education, disability, religion, family composition, and age.⁰ In fact, we estimate that approximately 40% of LGBT people are people of color, with 21% of LGBT adults identifying

⁰ See, e.g., GENDER IDENTITY IN U.S. SURVEILLANCE (GENIUSS) GROUP, WILLIAMS INST., BEST PRACTICES FOR ASKING QUESTIONS TO IDENTIFY TRANSGENDER AND OTHER GENDER MINORITY RESPONDENTS ON POPULATION- BASED SURVEYS (2014), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Survey-Measures-Trans- GenIUSS-Sep-2014.pdf>; SEXUAL MINORITY ASSESSMENT RESEARCH TEAM (SMART), WILLIAMS INST., BEST PRACTICES FOR ASKING QUESTIONS ABOUT SEXUAL ORIENTATION ON SURVEYS (2009), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Best-Practices-SO-Surveys-Nov-2009.pdf>.

⁰ 88 Fed. Reg. 3,981.

⁰ KERITH J. CONRON & SHOSHANA K. GOLDBERG, WILLIAMS INST., ADULT LGBT POPULATION IN THE UNITED STATES 1 (2020), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-Adult-US-Pop-Jul-2020.pdf>; KERITH J. CONRON, WILLIAMS INST., LGBT YOUTH POPULATION IN THE UNITED STATES 2 (2020), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-Youth-US-Pop-Sep-2020.pdf>.

⁰ JODY L. HERMAN ET AL., WILLIAMS INST., HOW MANY ADULTS AND YOUTH IDENTIFY AS TRANSGENDER IN THE UNITED STATES? 4 (2022), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Trans-Pop-Update-Jun- 2022.pdf>.

as Latino/a⁰ or Hispanic, 12% as Black, and 5% as more than one race.⁰ Research has also shown that LGBT people are more likely to be in poverty than non-LGBT people,⁰ contrary to the popular stereotype of LGBT affluence, and that LGBT people face persistent and pervasive discrimination in employment, housing, and other important settings.⁰ Additionally, LGBT people face numerous health disparities compared to the general population.⁰

2. Research shows that LGBT teachers and principals may have unique experiences in the workplace that could be better understood through survey data

LGBT teachers and principals, like other LGBT professionals, experience unique barriers in the workplace due to sexual orientation and gender identity. This includes a long and well- documented history of discrimination in the workplace, and a recent spike in anti-LGBT legislation targeting schools. Unique experiences of LGBT teachers and school administrators may also include barriers to or opportunities for advancement that could be evaluated more thoroughly with the addition of SOGI measures to the NTPS.

Evidence of anti-LGBT discrimination experienced by teachers and school administrators

LGBT teachers have historically experienced both institutional and interpersonal discrimination. Often this has taken the form of attempts to ban the employment of LGBT teachers outright. For example, in California, statewide efforts to purge LGBT teachers from public education began in the early 1950s when the state enacted laws criminalizing same-sex sexual conduct and subsequently used criminal records to deny or revoke state licenses, including teaching certification.⁰ Scholars estimate that hundreds of teachers lost their jobs as a result.⁰ Similar purges of LGBT government or state-licensed employees, including teachers, occurred in Florida, Iowa, Massachusetts, Texas, Oklahoma, Idaho, North Carolina, and New York City.⁰

Although LGBT public school teachers are protected from discrimination under Title VII of the Civil Rights Act and the U.S. Constitution,⁰ research on LGBT employees in U.S. public schools shows a continuing pattern

⁰ Institute of Medicine, *The Health of Lesbian, Gay, Bisexual, and Transgender People: Building a Foundation for Better Understanding* (2011), <http://www.iom.edu/Reports/2011/The-Health-of-Lesbian-Gay-Bisexual-and-Transgender-People.aspx>.

⁰ Here we use the term “Latina” to discuss individuals within that ethnic group. Some use the term “Latinx” - an emerging, gender-neutral alternative to Latino or Latina as an inclusive term that embraces “a wide variety of racial, national, and even gender-based identifications.” ED MORALES, *LATINX: THE NEW FORCE IN AMERICAN POLITICS & CULTURE* 5 (2019). We acknowledge that LGBT and non-LGBT people may describe themselves or their communities using other terms, such as Latino, Latina, Chicano/a, or Hispanic, or by their family’s country of origin. We encourage those utilizing this memo to use the terminology that best fits them, their communities, and their experiences

⁰ WILLIAMS INST., *LGBT Demographic Data Interactive* (January 2019), <https://williamsinstitute.law.ucla.edu/visualization/lgbt-stats/?topic=LGBT#demographic>.

⁰ See e.g. Bianca D.M. Wilson et al., *Williams Inst., LGBT Poverty in the United States* (2023), <https://williamsinstitute.law.ucla.edu/publications/lgbt-poverty-us/>.

⁰ See, e.g., Brad Sears et al., *Williams Inst., LGBT People’s Experiences of Workplace Harassment and DISCRIMINATION* (2021), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Workplace-Discrimination-Sep-2021.pdf>; Pizer et al., *Evidence of Persistent and Pervasive Workplace Discrimination Against LGBT People*, 45 *Loy. L.A. L. Rev* 715 (2012); ADAM P. ROMERO, SHOSHANA K. GOLDBERG, AND LUIS A. VASQUEZ, *WILLIAMS INST., LGBT PEOPLE AND HOUSING AFFORDABILITY, DISCRIMINATION, AND HOMELESSNESS* (2020), <https://williamsinstitute.law.ucla.edu/publications/lgbt-housing-instability/>; James et al., *Nat’l Ctr. for Transgender Equality, Report of the 2015 U.S. Transgender Survey 44-45* (2016), <http://www.transequality.org/sites/default/files/docs/usts/USTS%20Full%20Report%20-%20FINAL%201.6.17.pdf>.

⁰ See, Institute of Medicine, *supra* note 5.

⁰ BRAD SEARS, NAN D. HUNTER & CHRISTY MALLORY, *WILLIAMS INST., DOCUMENTING DISCRIMINATION BASED ON SEXUAL ORIENTATION AND GENDER IDENTITY IN STATE EMPLOYMENT* 5-19 (2009), <https://williamsinstitute.law.ucla.edu/publications/lgbt-discrim-state-employment/>.

⁰ *Id.*

⁰ *Id.* at 5-21 to 5-33.

⁰ See e.g. Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e - 2000e; *Bostock v. Clayton County*, 140 S. Ct. 1731 (2020); *Equality Act: Hearing on S. 393 and H.R. 5 Before the S. Comm. On the Judiciary*, 117th Cong. (2021) (written statement of Brad Sears, Christy Mallory & Luis Vasquez), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Testimony-Equality-Act-State->

of discrimination and harassment.⁰ As one study noted, “the public record over the past five decades is filled with examples of discriminatory treatment of gay and gender non-conforming teachers, both in state laws that sanction inequitable practices and on the part of state officials who interpret regulations and statutes in a discriminatory manner.”⁰ A 2009 study of public sector employment discrimination conducted by the Williams Institute identified 77 examples of discrimination or harassment against LGBT teachers or principals between 1980 and 2009.⁰ The examples came from across the country, with at least one report of discrimination or harassment in 32 different states.⁰ Such examples are abundant in a variety of sources, including court opinions, administrative complaints, academic journals, books, newspapers, and publications by and complaints made to community-based organizations.⁰

Recent examples from news stories and case law demonstrate that LGBT school employees continue to report harassment by co-workers, students, parents, and other community members based on their sexual orientation and gender identity. In one instance, after the principal of a Maryland middle school revealed a teacher’s status as a transgender woman without her permission, she reported upwards of sixteen incidents of harassment by students and fellow teachers, including the demand from administrators that she present as her birth sex.⁰ She also reported adverse actions following her harassment complaints, including having her classroom moved farther away and removing her from teaching AP English.⁰ Similar workplace conditions have been reported by other LGBT school employees: allegations of a teacher’s social media profiles being hacked to indicate an “interest[] in boys and men;”⁰ a lesbian teacher’s being prevented from using the women’s restroom by fellow teachers;⁰ a transgender employee in Nevada reported being denied access to all-gender restrooms;⁰ and community members’ objecting to employees’ showing photos of their same-sex spouses, claiming it “promot[es] the homosexual agenda.”⁰

These examples are consistent with our findings from recent empirical research on employment discrimination. A 2021 survey conducted by the Williams Institute found that 46% of LGBT workers experienced employment discrimination or harassment because of their sexual orientation or gender identity at some point in their lives.⁰ Nearly one-third (31.1%) experienced discrimination or harassment within the past five years. Among LGBT workers who had worked for state or local government employers in particular, 28.2% experienced discrimination or harassment at some point in their lives. More specifically, about 1 in 10 reported being fired or not hired by a state or local government employer because of their sexual orientation or gender identity and about one-fifth (19%) reported experiencing verbal harassment while working for a state or local government

Governments-Mar-2021.pdf.

⁰ Stuart Biegel, *Unfinished Business: The Employment Non-discrimination Act (ENDA) and the K-12 Education Community*, 14 N.Y.U. J. LEGIS. & PUB. POL’Y 357 (2011), <http://www.nyuylpp.org/wp-content/uploads/2012/10/Stuart-Biegel-UnfinishedBusiness-The-Employment-Non-Discrimination-Act-and-the-K-12-EducationCommunity.pdf>; Todd A. DeMitchell et al., *Sexual Orientation and the Public School Teacher*, 19 BOSTON U. PUB. INTEREST L. J. 65 (2009), <https://www.bu.edu/pilj/files/2015/09/19-1DeMitchellEckesandFosseyArticle.pdf>.

⁰ Biegel, *supra*, at 385.

⁰ SEARS, HUNTER & MALLORY, *supra* note 11 at 12-59 to 12-189.

⁰ *Id.*

⁰ *Id.* at 12-1.

⁰ *Eller v. Prince George’s Cty. Pub. Sch.*, No. CV TDC-18-3649, 2022 WL 170972, at *1 (D. Md. Jan. 14, 2022).

⁰ *Id.*

⁰ Arthur S. Leonard, *Title VII Sexual Orientation Bias Claims Divide Trial Courts*, GAY CITY NEWS (June 23, 2016), <https://www.gaycitynews.com/title-vii-sexual-orientation-bias-claims-divide-trial-courts/>.

⁰ Kerri O’Brien, *Former Teacher Files Lawsuit Against Chesterfield Schools, Says She Was Told To Be More Feminine*, ABC 8 NEWS (Feb. 5, 2019), <https://www.wric.com/news/taking-action/former-teacher-files-lawsuit-against-chesterfield-schools-says-she-was-told-to-be-more-feminine/>.

⁰ *Roberts v. Clark Cty. Sch. Dist.*, 215 F. Supp. 3d 1001, 1015–16 (D. Nev. 2016).

⁰ *Bailey v. Mansfield Independent Sch. Dist.*, 425 F. Supp. 3d 696, 706 (N.D. Tx. 2019); Michael Levenson, *Teacher Who Was Suspended after She Showed Photo of Her Wife Reaches \$100,000 Settlement*, N.Y. TIMES (Feb. 27, 2020), <https://www.nytimes.com/2020/02/27/us/stacy-bailey-mansfield-teacher.html>.

⁰ SEARS ET AL., *supra* note 9, at 1.

employer.⁰ In response to survey questions that asked for details pertaining to experiences of discrimination, several teachers reported discrimination and harassment by co-workers, supervisors, and students.⁰

Impact of recent state anti-LGBT legislation on teachers and school administrators

Approximately 188 bills have been filed in state legislatures which target or limit discussion about LGBT issues in primary or secondary schools in 2023 alone.⁰ Such policies, while often directed toward LGBT youth, can contribute to unsupportive climates for LGBT teachers, principals, and school staff as well. There is evidence of a long history of such policies being both introduced and enacted. One study documented several historical ballot initiatives to prevent LGBT teachers from working in schools and examined anti-LGBT language in the education regulations of eleven states as of 2017.⁰ Before Florida's "Don't Say Gay" bill in 2022,⁰ there were multiple states with anti-LGBT curriculum laws that explicitly called out LGBT issues for disfavored treatment, including Alabama, Louisiana, Mississippi, Oklahoma, and Texas.⁰ As of the date of this comment, seven states limit discussion of LGBT topics in schools and five states allow parents to opt out of LGBT-inclusive curricula.⁰

Research indicates that such a social climate may have an adverse impact on LGBT teachers, impeding a productive classroom experience and creating stigmatization and isolation.⁰ LGBT teachers in South Carolina, Virginia, and other states across the nation describe being afraid to be their full selves in the workplace, remaining closeted at their jobs out of fear.⁰ Teachers and school administrators report fear of retribution for discussing LGBT issues in class, and there is evidence of significant consequences, particularly in jurisdictions that have laws restricting discussion of LGBT issues.⁰ For example, a North Carolina middle school teacher was suspended for showing a popular music video featuring a positive message about same-sex marriage,⁰ and a South Carolina teacher alleged she was discharged for allowing a transgender student to use a teacher's restroom, rather than the designated one, which was a quarter mile from their classes.⁰ For these same reasons, some teachers fear responding to reports of LGBT bullying or harassment or even sponsoring Gay Straight Alliance clubs.⁰ When school districts in Texas were directed to remove books with LGBT themes, one teacher, who also sponsored the Gay-Straight Alliance club, was promptly placed on administrative leave after advocating to keep the books and rainbow stickers up for her LGBT students.⁰

Following the passage of Florida's "Don't Say Gay" law in 2022, many educators opted to quit rather than face

⁰ *Id.*, at 6.

⁰ *Id.*

⁰ *Mapping Attacks on LGBTQ Rights in U.S. State Legislature, Schools and Education*, AM. CIVIL LIBERTIES UNION, <https://www.aclu.org/legislative-attacks-on-lgbtq-rights?impact=&state=> (last visited Mar. 15, 2023).

⁰ Clifford Rosky, *Anti-Gay Curriculum Laws*, 117 COLUMBIA L. REV. 1461, 1465 (2017), <https://columbialawreview.org/content/anti-gay-curriculum-laws/>.

⁰ H.B. 1557, 2022 Sess., Ch. 2022-22 (Fla. 2022) (enacted).

⁰ #DontEraseUs: FAQ about Anti-LGBT Curriculum Laws, LAMBDA LEGAL, https://legacy.lambdalegal.org/blog/20141201_dont-erase-us (last visited Mar. 16, 2023).

⁰ LGBTQ Curricular Laws, MOVEMENT ADVANCEMENT PROJECT, https://www.lgbtmap.org/equality-maps/curricular_laws (last visited Mar. 15, 2023).

⁰ GLSEN, LAWS THAT PROHIBIT THE "PROMOTION OF HOMOSEXUALITY": IMPACTS AND IMPLICATIONS 1 (2018), https://www.glsen.org/sites/default/files/GLSEN%20Research%20Brief%20%20No%20Promo%20Homo%20Laws_1.pdf.

⁰ Madeline Will, *LGBTQ Teachers Await Decision on Discrimination Protections*, EDUC. WEEK (Jan. 14, 2020), <https://www.edweek.org/policy-politics/lgbtq-teachers-await-decision-on-discrimination-protections/2020/01>.

⁰ HUMAN RIGHTS WATCH, "LIKE WALKING THROUGH A HAILSTORM": DISCRIMINATION AGAINST LGBT YOUTH IN US SCHOOLS 39-42 (2016), https://www.hrw.org/sites/default/files/report_pdf/uslgbt1216web_2.pdf.

⁰ Alan Duke & Joe Sutton, *Teacher Suspended for Showing Class Macklemore's 'Same Love' Video*, CNN (Sept. 12, 2013), <http://www.cnn.com/2013/09/12/showbiz/same-love-teacher-suspended/>.

⁰ Complaint at 1-3, 5-6, *Matlis v. Sch. Dist. of Pickens Cty.*, No. 2016-CP-39-01232 (Ct. Com. Pl. Oct. 26, 2016).

⁰ HUMAN RIGHTS WATCH, *supra* note 36.

⁰ Tyler Kingkade, *A Texas Teacher Faces Losing Her Job After Fighting for Gay Pride Symbols in School*, NBC NEWS (Apr. 7, 2022), <https://www.nbcnews.com/news/us-news/lgbtq-students-texas-school-rainbow-stickers-rcna23208>.

backlash from parents or be forced to hide who they are.⁰ When one Florida teacher shared with his sixth-grade students that he would be marrying a man, a group of parents wrote in demanding ‘consequences,’ ultimately pushing him to resign.⁰ Another Florida teacher lost her job upon openly revealing her pansexuality to her middle school students.⁰ A different Florida teacher had already experienced animosity from colleagues regarding her marriage to a woman, but she ultimately quit when the new legislation created the potential for a parent lawsuit to stem “from just one awkward exchange about her personal life.”⁰ As these types of state laws and policies proliferate, more such experiences are likely to occur.

Effects of discrimination and stigma on LGBT teachers and school administrators

Above we have documented examples of teachers and school administrators who were subject to discipline, spoke out publicly, or opted to quit their jobs due to stigma and discrimination. Such experiences or fear of discrimination and harassment may also have health consequences. The minority stress model, which the U.S. Institute of Medicine (now the National Academies of Sciences, Medicine, and Engineering) recognized as a core perspective for understanding LGBT health,⁰ describes how LGBT people experience chronic stress stemming from their stigmatization. Stress related to both day-to-day discrimination⁰ and anti- LGBT policymaking have been associated with negative health consequences.⁰ Furthermore, LGBT teachers and school administrators may adopt behaviors to avoid discrimination and stigma, such as “covering,”⁰ or taking precautions not to reveal their sexual orientation or transgender status. A 2021 Williams Institute study found that around half of LGBT employees who have worked in K-12 education (49.1%) were not open about being LGBT to their supervisors.⁰ One-quarter (25.0%) of LGBT employees who worked in K-12 education were not out to any of their co-workers.⁰

SOGI measures on the NTPS will help understand LGBT experiences of LGBT teachers and school administrators

The NTPS is a preferred means for capturing SOGI information about LGBT teachers and principals, since protocols are in place to ensure the privacy of participants.⁰ As a foundational matter, sexual orientation and gender identity data collected through the National Teacher and Principal Survey could be used to measure

⁰ Matt Laviestes, ‘I Cannot Teach in Florida’: LGBTQ Educators Fear Fallout from New School Law, NBC NEWS (Apr. 1, 2022), <https://www.nbcnews.com/nbc-out/out-politics-and-policy/-cannot-teach-florida-lgbtq-educators-fear-fallout-new-school-law-rcna22106>.

⁰ *Id.*

⁰ Hannah Natanson, *This Florida Teacher Married a Woman. Now She’s Not a Teacher Anymore*, WASH. POST (May 19, 2022), <https://www.washingtonpost.com/education/2022/05/19/gay-florida-teacher-desantis-lgbtq/>.

⁰ *Id.*

⁰ INSTITUTE OF MEDICINE, THE HEALTH OF LESBIAN, GAY, BISEXUAL, AND TRANSGENDER PEOPLE: BUILDING A FOUNDATION FOR BETTER UNDERSTANDING 20 (2011), <https://www.ncbi.nlm.nih.gov/books/NBK64806>; See also See, e.g., Ilan H. Meyer, *Minority Stress and Mental Health in Gay Men*, 36 J. HEALTH & SOC. BEHAV. 38, 38 (1995); cf. Ilan H. Meyer, Sharon Schwartz & David M. Frost, *Social Patterning of Stress and Coping: Does Disadvantaged Social Statuses Confer More Stress and Fewer Coping Resources?* 67 SOC. SCI. & MED. 368, 371 (2008) (examining “social stress theory”).

⁰ Vickie M. Mays & Susan D. Cochran, *Mental Health Correlates of Perceived Discrimination Among Lesbian, Gay, and Bisexual Adults in the United States*, 91 AM. J. PUB. HEALTH 1869 (2001); Michael L. Hendricks & Rylan J. Testa, *A Conceptual Framework for Clinical Work with Transgender and Gender Nonconforming Clients: An Adaptation of the Minority Stress Model*, 43 PROF. PSYCH.: RES. & PRAC. 460 (2012)

⁰ Julia Raifman, Ellen Moscoe, S. Bryn Austin, Mark L. Hatzenbuehler & Sandro Galea, *Association of State Laws Permitting Denial of Services to Same-Sex Couples with Mental Distress in Sexual Minority Adults: A Difference-in- Difference-in-Differences Analysis*, 75 JAMA PSYCHIATRY 671-77 (2018).

⁰ CHRISTY MALLORY ET AL., WILLIAMS INST., WORKPLACE DISCRIMINATION AND HARASSMENT AGAINST LGBT STATE & LOCAL GOVERNMENT EMPLOYEES 2 (2021), <https://williamsinstitute.law.ucla.edu/publications/public-sector-workplace-discrim/>.

⁰ *Id.*

⁰ *Id.*

⁰ See e.g. *The 2020-21 National Teacher and Principal Survey (NTPS)*, NAT’L CTR. ED. STAT. https://nces.ed.gov/surveys/ntps/participants_2021.asp (last visited Mar. 16, 2023) (providing answers to frequently asked questions).

LGBT representation among teachers and principals. Additionally, SOGI measures on the NTPS will provide more insights into the experiences of LGBT teachers, including whether they are more likely to report stress at school, low satisfaction, complaints from parents, or fear of litigation, for example.⁰ Such information would also shed light on barriers experienced by LGBT teachers and principals to entering or remaining in these professions, and inform efforts to protect teachers from discrimination and harassment based on sexual orientation and gender identity through laws and policies.

3. Public policy is in favor of collecting SOGI data on the NTPS

Population-based data on all LGBT Americans and their families are necessary to inform federal and state policymaking. Indeed, as far back as 2016 federal statistical agencies have explained that:

At a time when sexual and gender minority (SGM) populations are becoming more visible in social and political life, there remains a lack of data on the characteristics and well-being of these groups. In order to understand the diverse needs of SGM populations, more representative and better quality data need to be collected.⁰

Since then, a growing number of federal government surveys allow people to voluntarily disclose their sexual orientation and/or gender identity along with other demographic data, such as race, ethnicity, and sex. Examples of federal government surveys that collect sexual orientation and gender identity data include the National Health Interview Survey, the Behavioral Risk Factor Surveillance System, the Youth Risk Behavior Surveillance System, the National Crime Victimization Survey, and the Household Pulse Survey. Additionally, federal agencies such as Housing and Urban Development⁰ the Centers for Medicare and Medicaid Services⁰ have proposed to add SOGI measures to future questionnaires.

The Biden Administration has made it clear that data collection on sexual orientation and gender identity – as well as data collection on intersex⁰ populations – is an important policy priority. The President has directed agencies to look at their data collections to see where LGBT measures may be added, and to develop data action plans to further that goal.⁰ In support of this process, the Office of Management and Budget has issued guidelines,⁰ and the Office of Science and Technology Policy has released a Federal Evidence Agenda for LGBTQI+ Equity.⁰ The inclusion of SOGI measures on the NTPS is consistent with these expectations of the Department and NCES, and furthers the critical policy interest of better quality data on this vulnerable population.

⁰ See Sections 7-1 and 7-2, Proposed Teacher Questionnaire, National Teacher and Principal Survey, 2023-2024 School Year; See also, Section 8-1, Proposed Principal Questionnaire, National Teacher and Principal Survey, 2023- 2024 School Year.

⁰ Federal Interagency Working Group on Improving Measurement of Sexual Orientation and Gender Identity in Federal Surveys, *Current Measures of Sexual Orientation and Gender Identity in Federal Surveys* (2016), https://nces.ed.gov/FCSM/pdf/current_measures_20160812.pdf (last visited Mar. 16, 2023).

⁰ See 60-Day Notice of Proposed Information Collection: 2023 American Housing Survey; OMB Control No.: 2528–0017, 87 Fed. Reg. 57,215, 57,216 (Sep. 19, 2022).

⁰ See Agency Information Collection Activities: Submission for OMB Review; Comment Request; CMS-P-0015A; OMB Control No. 0938-0568, 87 Fed. Reg. 19,517 (April 04, 2022).

⁰ Intersex is an umbrella term for differences in sex traits or reproductive anatomy. Intersex people are born with these differences or develop them in childhood. There are many possible differences in genitalia, hormones, internal anatomy, or chromosomes, compared to the usual two ways that human bodies develop. *What is the definition of intersex?* INTERACT YOUTH ADVOCATES, <https://interactadvocates.org/faq/> (last visited Mar. 16, 2023).

⁰ Exec. Order. 14,075, 87 Fed. Reg. 37,189 (Jun. 21, 2022).

⁰ OFFICE OF MANAGEMENT AND BUDGET, RECOMMENDATIONS ON THE BEST PRACTICES FOR THE COLLECTION OF SEXUAL ORIENTATION AND GENDER IDENTITY DATA ON FEDERAL STATISTICAL SURVEYS (2023), <https://www.whitehouse.gov/wp-content/uploads/2023/01/SOGI-Best-Practices.pdf>.

⁰ OFFICE OF SCIENCE AND TECHNOLOGY POLICY, FEDERAL EVIDENCE AGENDA ON LGBTQI+ EQUITY (Jan. 2023), <http://whitehouse.gov/wp-content/uploads/2023/01/Federal-Evidence-Agenda-on-LGBTQI-Equity.pdf>

4. Suitable measures of sexual orientation and gender identity have been developed for federal population surveys

SOGI measures have been implemented and evaluated on community surveys, privately funded surveys, and some government-funded population surveys for decades. After convening a panel of experts, the National Academies of Sciences, Engineering and Medicine released a consensus report on March 2022 documenting the results of their rigorous evaluation of sex, sexual orientation and gender identity measures (“NASEM Report”).⁰ The NASEM Report examined dozens of examples of SOGI and sex characteristic data collection from both national and international sources.⁰ Using a set of five guiding principles: inclusiveness, precision, autonomy, parsimony, and privacy,⁰ and evaluating for many factors including readability and measured effectiveness, the report identified best practices for collecting sex, sexual orientation and gender identity information in three core settings, including on population surveys. The NASEM Report can and should be considered a model for agencies to follow when designing surveys.

Although there are slight variations, the measures proposed by NCES on the NTPS are consistent with those in the NASEM report: a two-step gender question, and a sexual orientation question for public school teachers and principals.⁰ NCES has proposed a simplified gender question for private school teachers and principals, which does not ask sex assigned at birth or sexual orientation but provides the option for respondents to select another gender option.⁰ This is preferable to a binary sex question, in that it does not force private school teachers or principals to choose male or female options, but notably the questionnaire does not request information which might lead to LGBT discrimination if the school is exempt from federal nondiscrimination protections, such as those under Title IX of the Education Amendments Act of 1972, or Title VII as discussed above.⁰

Furthermore, testing and implementation of SOGI measures has provided important confirmation that people will answer questions about sexual orientation and gender identity, and that asking them does not disrupt survey results. For example, survey respondents are more than twice as likely to refuse to answer questions about income as about sexual orientation, and that, in any event, the refusal rate is relatively low.⁰ Other research has demonstrated that including sexual orientation and gender identity questions does not cause survey breakoff.⁰ The NASEM report also finds that, for surveys and research settings in particular, data are often collected in aggregate and with protections in place to maintain confidentiality, reducing the risk of disclosure and enabling routine collection of data to identify LGBTI populations.

5. Conclusion

⁰ *Measuring Sex, Gender Identity, and Sexual Orientation for the National Institutes of Health*, NAT'L ACADEMIES OF SCIENCES, ENGINEERING, & MED., <https://www.nationalacademies.org/our-work/measuring-sex-gender-identity-and-sexual-orientation-for-the-national-institutes-of-health> (last visited Mar. 1, 2023).

⁰ References, *Id.* at 151-172.

⁰ *Id.* at 37-44.

⁰ 9-4 (Sex Assigned at Birth), 9-5 (Gender Identity), 9-6 (Sexual Orientation), both Principal and Teacher Questionnaires, National Teacher and Principal Survey, 2023-2024.

⁰ 9-4 (Gender)

⁰ See generally, 20 U.S.C. §§ 1681-1688; *Exemptions from Title IX*, U.S. DEPT. OF ED., <https://www2.ed.gov/about/offices/list/ocr/docs/t9-rel-exempt/index.html> (last visited Mar. 15, 2023).

⁰ Beatriz C. Carlini et al., Presentation: What does this have to do with quitting smoking? Push & Pull of Asking Sensitive Questions to Callers Seeking Tobacco Treatment through Quitlines (World Conference on Tobacco or Health: 2006).

⁰ Stewart Landers, Kerith Conron, and Randall Sell, Presentation: Developing Data for Advocacy (National LGBTI Health Summit: 2007); Patricia Case, *Disclosure of Sexual Orientation and Behavior in the Nurses' Health Study II: Results from a Pilot Study*, 51 J. HOMOSEXUALITY 13 (2006).

Data on LGBT populations are needed to improve the capacity of lawmakers, policymakers, researchers and the general public to understand and address vulnerabilities faced by LGBT people. Including measures of sexual orientation and gender identity in the National Teacher and Principal Survey would enhance the quality and utility of information available to NCES about LGBT representation among teachers and principals, and about the unique experiences of these professionals. Policy efforts to improve educational environments for both teachers and students—LGBT teachers and students in particular—would benefit from this information. Accordingly, we support the proposal from NCES to include these measures.

The Williams Institute is grateful for this opportunity to submit this comment as the Department considers revisions to the 2023-2024 National Teacher and Principal Survey. Please reach out to us if you would like to discuss our submission or if you have any questions.

Respectfully Submitted,

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Dear Scholars of the Williams Institute,

Thank you for your very thorough and educational comment and your ongoing interest in NTPS and the work at NCES. We appreciate the interest and your support.

Sincerely,
Maura Spiegelman
National Teacher and Principal Survey
Cross-Sectional Surveys Branch
National Center for Education Statistics
U.S. Department of Education
Office: 202-245-6581

Document: ED-2023-SCC-0019-0008

Name: The Human Rights Campaign

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 National Center for Education Statistics (NCES) within the U.S. Department of Education (the “Department”) for its 2023–2024 National Teacher and Principal Survey (“NTPS”).⁰

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+ teachers and principals—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.

The NTPS is conducted by NCES every two or three years through a series of related questionnaires describing “the context of elementary and secondary education”—including through demographic items allowing for insight on teachers and principals to then be analyzed in relation to data on schools themselves.⁰ 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. Using data collected through the U.S. Census Bureau’s Household Pulse Survey, we recently estimated that at least 20 million adults in the U.S. identify as LGBTQ+.⁰ Consistent with others’ research, we have also found evidence that younger people are more likely to identify as LGBTQ+.⁰ LGBTQ+ people are a demographically diverse population.⁰

Despite longstanding protections under the law, Americans from all walks of life continue to experience discrimination denying them employment opportunities, economic security, and dignity at work, including in their jobs as teachers and principals in our nation’s schools. LGBTQ+ people uniquely experience harassment and discrimination based on their sexual orientation and gender identity, which research demonstrates has often led to disparate experiences with discrimination when compared to their non-LGBTQ+ counterparts,⁰

⁰ Agency Information Collection Activities; Comment Request; National Teacher and Principal Survey of 2023- 2024 (NTPS 2023-24) Data Collection, 88 Fed. Reg. 3981 (Jan. 23, 2023).

⁰ *Id.*

⁰ HUMAN RIGHTS CAMPAIGN FOUND., WE ARE HERE: UNDERSTANDING THE SIZE OF THE LGBTQ+ COMMUNITY (2021), <https://hrc-prod-requests.s3-us-west-2.amazonaws.com/We-Are-Here-120821.pdf>.

⁰ SHOSHANA K. GOLDBERG ET AL., HUMAN RIGHTS CAMPAIGN & BOWLING GREEN STATE UNIV., EQUALITY ELECTORATE: THE PROJECTED GROWTH OF THE LGBTQ+ VOTING BLOC IN COMING YEARS (2022), <https://hrc-prod-requests.s3-us-west-2.amazonaws.com/LGBTQ-VEP-Oct-2022.pdf>. The Williams Institute has previously estimated that at least 2 million youth ages 13–17 identify as LGBT in the U.S., including approximately 300,000 youth who are transgender. JODY L. HERMAN ET AL., WILLIAMS INST., HOW MANY ADULTS AND YOUTH IDENTIFY AS TRANSGENDER IN THE UNITED STATES? (2022), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Trans-Pop-Update-Jun-2022.pdf>; KERITH J. CONRON, WILLIAMS INST., LGBT YOUTH POPULATION IN THE UNITED STATES (2020), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-Youth-US-Pop-Sep-2020.pdf>.

⁰ *LGBT Demographic Data Interactive*, WILLIAMS INST. (Jan. 2019), <https://williamsinstitute.law.ucla.edu/visualization/lgbt-stats/?topic=LGBT#demographic>.

⁰ See generally NPR, ROBERT WOOD JOHNSON FOUND. & HARVARD T.H. CHAN SCH. OF PUB. HEALTH, DISCRIMINATION IN AMERICA: EXPERIENCES AND VIEWS OF LGBTQ AMERICANS (2017), <https://legacy.npr.org/documents/2017/nov/npr-discrimination-lgbtq-final.pdf> (experiences in variety of contexts).

including in schools.⁰ Discrimination against LGBTQ+ communities takes many forms, and can become insidiously commonplace for those holding multiple marginalized identities experiencing the combined brunt of racism, colorism, misogyny, ableism, and other forms of hate.⁰

Federal agencies have long been researching and collecting information on LGBTQ+ people like what is being proposed be asked here by NCES through the NTPS's teacher and principal questionnaires.⁰ 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.⁰ 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.⁰ 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 schools as teachers and principals.⁰

Additionally, we note that the proposed SOGI items for the teacher and principal questionnaires 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").⁰ 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 NCES's implementation of well-tested measures and in light of our knowledge on LGBTQ+ people and their experiences in employment generally. While it is not the case that only certain populations can become teachers and principals, data on whether and how individuals belonging to specific communities do so—including on the intersectional experiences of groups like LGBTQ+ people of color and others historically experiencing the brunt of marginalization and exclusion from employment—would be necessary to ensure the NTPS fulfills its purpose.

⁰ See, e.g., JOSEPH G. KOSCIW ET AL., GLSEN, THE 2021 NATIONAL SCHOOL CLIMATE SURVEY (2022), <https://www.glsen.org/sites/default/files/2022-10/NSCS-2021-Full-Report.pdf> (experiences in K-12 schools); KATHRYN K. O'NEILL ET AL., WILLIAMS INST., EXPERIENCES OF LGBTQ PEOPLE IN FOUR-YEAR COLLEGES AND GRADUATE PROGRAMS (2022), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBTQ-College-Grad-School-May-2022.pdf> (experiences in higher education).

⁰ See, e.g., BRAD SEARS ET AL., WILLIAMS INST., LGBT PEOPLE'S EXPERIENCES OF WORKPLACE DISCRIMINATION AND HARASSMENT 11 (2021), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Workplace-Discrimination-Sep-2021.pdf> (noting that surveyed LGBT employees of color were more likely to report being not hired or experiencing verbal harassment at work because of their sexual orientation or gender identity at some point in their lives than white LGBT employees); cf. BIANCA D.M. WILSON ET AL., WILLIAMS INST., RACIAL DIFFERENCES AMONG LGBT ADULTS IN THE U.S.: LGBT WELL-BEING AT THE INTERSECTION OF RACE (2022) <http://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-Race-Comparison-Jan-2022.pdf>. For research on transgender people, who report significantly higher rates of discrimination and harassment often even when compared to their cisgender LGB counterparts, see generally SANDY E. JAMES ET AL., NAT'L CTR. FOR TRANSGENDER EQUALITY, THE REPORT OF THE 2015 U.S. TRANSGENDER SURVEY (2016), <https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf> (results of the largest sample of transgender adults in the U.S. to date); see also SEARS ET AL., *supra* note 8, at 2 (noting that "over twice as many transgender employees reported not being hired (43.9%) because of their LGBT status compared to LGB employees (21.5%)."); SANDY E. JAMES ET AL., 2015 U.S. TRANSGENDER SURVEY: REPORT ON THE EXPERIENCES OF BLACK RESPONDENTS (2017), <https://transequality.org/sites/default/files/docs/usts/USTS-Black-Respondents-Report.pdf>.

⁰ 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>.

⁰ *Id.* at 52-55, 67.

⁰ 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>.

⁰ 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>.

⁰ NAT'L ACADEMIES OF SCIENCES, ENGINEERING, & MED., *supra* note 9.

Finally, we would also highlight that recent efforts to provide recommendations for the measurement of SOGI across federal government surveys have also included recommendations for future research on measures that would allow for the identification of intersex people.⁰ Intersex people with innate variations in their physical sex characteristics are estimated to make up as many as 1.7% of the global population.⁰ Intersex and LGBTQ+ people more broadly share common, underserved needs, as well as common challenges and experiences of social stigma, invisibility, and discrimination, that are rooted in restrictive norms and stereotypes regarding gender and sexual orientation. Intersex people also considerably overlap with other LGBTQI+ subpopulations, though they are distinct.⁰ For example, intersex people are distinct from transgender and nonbinary people, but overall are more likely to be transgender or nonbinary. Given this context, we recommend that NCES and the Department also evaluate and as appropriate add such standalone measures that can identify intersex populations for these and other surveys to ensure our knowledge on intersex populations can continue to develop. We would likewise also encourage NCES and the Department to continue exploring improvements to their collection of SOGI data in the future, given known recommendations on needed research on measures and response options that would allow even more individuals to be counted in collected data exactly as they identify.⁰

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.

Dear representatives of the Human Rights Campaign,

Thank you for your interest in NTPS and for reaching out with your comments and suggestions.

We do not plan to collect data on sex characteristics on the NTPS at this time. NCES staff are active in research and interagency collaboration with other federal agencies about the collection of SOGI (and sex characteristics) data. We will attend to whether other federal surveys, such as those collecting data on health, begin to add these measures to their questionnaires, as well as whether they are included on surveys on other topics.

Thank you for your comment and your ongoing interest in NTPS and the work at NCES.

Sincerely,
Maura Spiegelman
National Teacher and Principal Survey
Cross-Sectional Surveys Branch
National Center for Education Statistics
U.S. Department of Education
Office: 202-245-6581

Document: ED-2023-SCC-0019-0009

Name: Aaron Ridings; Chief of Staff and Deputy Executive Director; Gay, Lesbian and Straight Education

⁰ See *id.* at 145.

⁰ Melanie Blackless et al., *How Sexually Dimorphic Are We? Review And Synthesis*, 12 AM. J. HUMAN BIOLOGY 151 (2000).

⁰ NAT'L ACADEMIES OF SCIENCES, ENGINEERING, & MED, UNDERSTANDING THE WELL-BEING OF LGBTQI+ POPULATIONS 26–28 (2020), <https://doi.org/10.17226/25877>.

⁰ See, e.g., NAT'L ACADEMIES OF SCIENCES, ENGINEERING, & MED., *supra* note 9, at 132–33 (recommending assessment of nonbinary response options and other possible improvements to gender identity measures).

Network (GLSEN)

GLSEN is pleased to submit this comment regarding the proposed National Teacher and Principals Survey (NTPS) of 2023-2024. As the leading national organization on LGBTQ+ issues in K-12 education, GLSEN strongly supports the National Center for Education Statistics' (NCES) proposed inclusion of questions that allow public school teachers and principals to self-report their sexual orientation and gender identity in the NTPS of 2023-2024.

It is important to understand the extent to which our teachers and school staff reflect the diversity of student populations and to assess barriers to the retention and advancement of LGBTQI+ educators. LGBTQI+ educators are more likely than their non-LGBTQI+ peers to engage in LGBTQI+ inclusive teaching practices even while reporting more barriers to doing so than their non-LGBTQI+ peers, including fear that their job would be at risk if they came out or were outed as LGBTQI+. ⁰

The inclusion of measures of sexual orientation and gender identity on the proposed NTPS of 2023-2024 demonstrates a commitment to advancing the rights of LGBTQI+ communities and to adopting a data-driven approach to policymaking through this. Furthermore, the inclusion of these measures aligns with recommendations and Learning Agenda Framework proposed in the "Federal Evidence Agenda on LGBTQI+ Equity," published by the Subcommittee on Sexual Orientation, Gender Identity, and Variations in Sex Characteristics (SOGISC) Subcommittee on Equitable Data of the National Science and Technology Council in January 2023. ⁰ The Learning Agenda framework prioritizes questions that will help drive federal agencies to build evidence and leverage SOGISC data to advance equity for LGBTQI+ people across four key areas, including Economic Security and Education. Inclusion of measures of sexual orientation and gender identity on the NTPS of 2023-2024 will particularly help to address this overarching question from the Learning Agenda: *How can the Federal Government promote equitable outcomes for LGBTQI+ people in income, economic well-being, and the workplace?*

While GLSEN strongly supports the measures of sexual orientation and gender identity proposed for inclusion on the NTPS of 2023-2024 that public schools will participate, we do urge NCES to allow private schools to opt-in to including these measures. As proposed, private schools have no opportunity to provide this data. Finally, the U.S. Department of Education should collaborate with the U.S. Census Bureau and other federal agencies to test and adopt measures of variations in sex characteristics (including intersex traits) for a future NTPS.

Thank you for considering these recommendations. To discuss the recommendations in this comment, please contact me at aaron.ridings@glsen.org.

Sincerely,

Aaron Ridings

Chief of Staff and Deputy Executive Director for Public Policy and Research

⁰ GLSEN. (2020). Supporting LGBTQ Students by Protecting LGBTQ Teachers. New York: GLSEN.

<https://www.glsen.org/research/lgbtq-supportive-teaching> (Accessed March 23, 2023).

⁰ Subcommittee on Sexual Orientation, Gender Identity, and Variations in Sex Characteristics (SOGI) Data Subcommittee on Equitable Data, "Federal Evidence Agenda on LGBTQI+ Equity," January 2023, available at <https://www.whitehouse.gov/wp-content/uploads/2023/01/Federal-Evidence-Agenda-on-LGBTQI-Equity.pdf>.

Dear Mr. Ridings,

We do not plan to collect data on sex characteristics on the NTPS at this time. NCES staff are active in research and interagency collaboration with other federal agencies about the collection of SOGI (and sex characteristics) data. We will attend to whether other federal surveys, such as those collecting data on health, begin to add these measures to their questionnaires, as well as whether they are included on surveys on other topics.

The primary goal of the NTPS is to collect data about K-12 public and private education, including characteristics of the principal and teacher workforces. Asking schools to opt-in to questions on different topics, rather than asking questions to all respondents, would not produce estimates for the SOGI teachers in private schools. We will continue to review feedback from private school staff and associations to determine whether these questions can be successfully integrated into future NTPS principal or teacher questionnaires.

Thank you for your comment and your ongoing interest in NTPS and the work at NCES.

Sincerely,
Maura Spiegelman
National Teacher and Principal Survey
Cross-Sectional Surveys Branch
National Center for Education Statistics
U.S. Department of Education
Office: 202-245-6581