

# Proposed Expanded Collection of Statistics on Sexual Orientation and Gender Identity by the Federal Government

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The U.S. Census Bureau has proposed a test of questions about sexual orientation and gender identity (SOGI) as possible additions to the American Community Survey (ACS). While federal surveys have collected sexual orientation and gender identity data as early as, respectively, 2001 and 2007, the Biden Administration has taken steps to expand collection of these statistics. In June 2022, [Executive Order 14075](#) instructed the Director of the Office of Management and Budget (OMB) to develop a [report](#) recommending best practices for collecting SOGI data in federal statistics. In September 2023, the Census Bureau announced a [proposal](#) to test SOGI questions on the ACS, a large-scale survey of U.S. households that randomly selected respondents are required to complete.

The Census Bureau [defines](#) sex and gender as follows:

Sex is based on the biological attributes of men and women (chromosomes, anatomy, hormones), while gender is a social construction whereby a society or culture assigns certain tendencies or behaviors the labels of masculine or feminine.

There is currently no uniform standard for the collection of SOGI data in federal surveys. Members have introduced legislation in the 118<sup>th</sup> Congress in the [House](#) and the [Senate](#) to require the collection of SOGI data; meanwhile, other Members have [expressed opposition](#) to the Census Bureau's proposal to ask questions about gender identity.

## History of SOGI in Federal Surveys

The federal government collected data relating to sexual orientation as early as 2001 in [several surveys](#), including the Centers for Disease Control and Prevention's [National Health and Nutrition Examination Survey](#) and [National Health Interview Survey](#) (NHIS). Questions asking respondents to provide [information about their gender identity](#) were asked as early as 2007 in the Bureau of Justice Statistics' [National Inmate Survey](#).

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The Census Bureau has reported on respondents who identified themselves as same-sex married couples since [2005 with ACS estimates](#) and data collected in the [2010 decennial census](#). Data on same-sex couples were also published from the 2000 decennial census in the form of [Married-Couple and Unmarried-Partner Households](#), with 594,000 households responding as partners of the same sex.

The Census Bureau also began publishing [data on same-sex couples as of 2013](#) from the ACS, the [Survey of Income and Program Participation](#), and the [American Housing Survey](#). The 2020 decennial census also produced information about same-sex couples.

None of these surveys included questions that specifically asked respondents about their sexual orientation or gender identity. That changed with the 2014 NHIS, which [recorded sexual orientation among respondents](#). In July 2021, the Census Bureau's Household Pulse Survey (HPS) [collected both sexual orientation and gender identity data](#).

SOGI data gathered in the United States by nongovernment entities, such as [Statista](#) and [Gallup](#), found approximately 7% of respondents identified in 2022 as lesbian, gay, bisexual, or transgender (LGBT).

Outside of the United States, an Organisation for Economic Co-operation and Development (OECD) [2019 report](#) identified 14 OECD member countries which collect information on sexual self-identification, including Canada and Mexico. In the United Kingdom, the Census for England and Wales [began asking about SOGI in 2021](#).

## 2024 ACS Sexual Orientation and Gender Identity Test

On September 19, 2023, the Census Bureau [announced](#) a proposal to begin testing SOGI questions on the ACS. Known as the 2024 ACS SOGI Test, the test is intended to build on existing research, including work done by the [Federal Interagency Working Group on Measuring SOGI](#); the Federal Committee on Statistical Methodologies' [Measuring SOGI Research Group](#); and the [National Academies of Sciences, Engineering, and Medicine](#) (NASEM).

The test proposes a [two-step gender identity question](#) that would first ask about the respondent's sex assigned at birth then ask about current gender. If the responses to these questions do not match, a verification question would be asked. This would replace the existing ACS question asking the respondent's sex. The test would also include a question about sexual orientation.

Proposed questions asking the respondent's "current gender" and "sexual orientation" would only be asked to individuals aged 15 and older.

### ACS SOGI Test Questions

**Sex Assigned at Birth**

Question: What sex was <Name> assigned at birth?

Answers: Male; Female

**Current Gender**

Question: What is <Name's> current gender?

Answers: Male; Female; Transgender; Nonbinary; This person uses a different term (with a space to write in a response)

**Sexual Orientation**

Question: Which of the following best represents how <Name> thinks of themselves?

Answers: Gay or lesbian; Straight—that is not gay or lesbian; Bisexual; This person uses a different term (with a space to write in a response)

The test aims to understand the question's performance [when completed by proxy respondents](#). Typically, one person at an address will respond to the ACS for the household. There are currently no SOGI questions on any federal surveys that use proxy reporting. In consideration of sensitivity in interviewer-led modes, the Census Bureau proposes [using flashcards](#) for in-person interviews to protect respondent privacy.

The 2024 ACS SOGI Test would include different treatments of some questions to be asked to assess best practices. Public comments for the proposal were open until November 20, 2023. The potential timeline for testing these potential questions and OMB's response to the proposal is not yet determined, but the process of adding [ACS questions can typically last up to five years](#).

## Potential Considerations for Congress

Some Members of Congress have voiced support and others opposition to the inclusion of SOGI data in federal surveys. Member efforts to enact an LGBTQI+ Data Inclusion Act began [in the 114<sup>th</sup> Congress](#). [Other Members have expressed opposition](#) to the Census Bureau asking questions about gender identity in particular. Among other considerations, the following questions may be of interest to Congress:

- How might Members interested in this topic engage on this issue through legislative or oversight means?
- With the [ACS being a mandatory survey](#), would the proposed SOGI questions be optional? Would they offer a “prefer not to say” option? Would the Census Bureau continue to utilize [disclosure avoidance](#) techniques used in the 2020 decennial?
- What are the viewpoints and issues raised by the [public commenting on this change](#)?
- What might be the impact of the ACS SOGI Test if implemented?

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