

December 20, 2023

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Office of Information and Regulatory Affairs
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CC: John Finamore, Chief Statistician, NSF National Center for Science & Engineering Statistics
Emilda Rivers, Director, NSF National Center for Science & Engineering Statistics
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RE: Request for a Public Comment Period; Potential Revisions Related to Sexual Orientation and Gender Identity Measures to the 2024-2025 Survey of Earned Doctorates Would Constitute a Substantive Change to an Approved Information Collection (OMB No. 3145-0019)

Dear Dr. Marcum,

I am writing to kindly request that NCSES be required to provide an opportunity for public comment on its anticipated revisions to the 2025 Survey of Earned Doctorates (SED) – a survey cycle that OIRA has already approved – because the potential addition of sexual orientation and gender identity (SOGI) measures would constitute a substantive rather than “non-substantive” change to an approved information collection.

On May 12, 2023, OIRA [approved](#) both the 2024 and 2025 SED survey cycles, but it set the following terms in anticipation of NCSES completing its current testing of SOGI measures for the SED:

This collection is approved for the 2024 survey cycle, including the proposed testing of sexual orientation and gender identity measures in the context of the SED, a survey in which data are given back to the academic institution. Given the concerns raised by cognitive interview participants about adding such measures in the context of the SED as well as the public’s interest in understanding whether there are differences in the educational experience of sexual and gender minorities, we look forward to further discussions with NCSES on how to meet data needs while respecting privacy concerns of respondents, informed by the results of this study. This approval is consistent with the NCSES commitment to brief OMB on the results and their implications before submitting its request for clearance for the subsequent cycle of data collection.

Similarly, NCSES indicated in its [Supporting Statement](#) that a “decision on the final SOGI questions for inclusion in the 2025 SED will be submitted for OMB approval prior to data collection for that cycle”. As OIRA has already approved the two consecutive 2024 and 2025 survey cycles, as is standard practice for the SED, it would seem that NCSES is expected to brief OMB on the results of its SOGI testing next year and then submit a non-substantive change request, which would obviate any opportunity for public comment. However, OIRA’s terms of clearance above are somewhat ambiguous, indicating that the SED “is [only] approved for the 2024 survey cycle” and appearing to anticipate a “request for clearance for the subsequent [2025] cycle”.

Per the OIRA Administrator’s [memorandum](#) on July 22, 2016, changes to an approved information collection may be considered non-substantive “as long as they do not introduce new concepts or measures that have not received public comment” (p. 5). While NCSES has previously introduced new measures into the SED via non-substantive change requests, such as COVID-19 impact items, the potential addition of SOGI measures is of significant public interest and should qualify as a substantive change requiring public comment, consistent with the OIRA memorandum and 5 CFR §§ 1320.8-1320.14.

A formal comment opportunity for the 2025 SED cycle is particularly important in light of the challenging six-year history of NCSES' SOGI data efforts. Public [concerns](#) have been raised in the media repeatedly about NCSES' evasiveness in pursuing SOGI measures for its surveys, its lack of rigor in its SOGI methodological approaches, and the lack of transparency in its findings.

In brief, while NCSES [committed](#) to begin testing SOGI in 2018, it delayed the testing for three years. When NCSES finally sought OMB clearance to initiate the testing, it [omitted](#) sexual orientation although re-included it following public [outcry](#). When NCSES completed its SOGI testing, it argued that sexual orientation should be excluded because the item's quality assessment metrics (e.g., breakoff rate) were worse than for gender identity. While true, what few data NCSES indirectly made available clearly [showed](#) that the quality assessment metrics for sexual orientation were actually on par or even quite superior to other sensitive demographic items long included on NCSES surveys, such as race, salary, earned income, or disability.

By rejecting arguments from the research community that NCSES should benchmark SOGI against other comparable demographic items, NCSES has diverged from clear precedents of its [peer statistical agencies](#) as well as OMB's own [guidance](#) for federal surveys that is premised on comparisons between SOGI and other sensitive data items (see p. 3). Other scientific [concerns](#) remain unaddressed, such as NCSES' claim that its sexual orientation item suffered from a response order effect when this effect appears to have spuriously resulted from a primacy bias driven by NCSES' inadequate procedures on the online survey platform used. In January 2023, NCSES publicly [committed](#) in *Science Magazine* to make the quality metrics and other data openly available to restore trust and confidence in its SOGI efforts. However, NCSES has yet to make such data available. The public has been left to interpret NCSES' actions as reflective of broader negligence and anti-LGBTQ+ sentiment at NSF, an agency with a troubling track record of harassment and [retaliation](#) against sexual minorities that the House Science Committee in 2019 [called](#) "disturbing".

Fortunately, following public [attention](#) on these issues in January 2023, NCSES launched the kind of comprehensive SOGI testing across its suite of surveys that it should have initiated six years ago. Several aspects of NCSES' latest testing, particularly related to the nuanced privacy considerations of the SED, are to be [applauded](#). The comment periods in launching this new round of testing have proven very valuable, allowing NCSES to use researchers' feedback to eliminate confounds and revise its methodology by adding, removing, or modifying SOGI question designs (e.g., [A](#), [B](#), and [C](#)). Thus, a comment period for SOGI-related changes to the 2025 SED is in the interest of both the public and NCSES. The challenging history of NCSES' efforts over the past six years also favors transparency and public engagement to the fullest extent possible.

In summary, NCSES should make available for public comment its proposed revisions to the 2025 SED along with a summary of findings from its latest round of SOGI testing. Such a public comment opportunity would best align with the OIRA Administrator's 2016 [memorandum](#), the NSTC's [Framework for Federal Scientific Integrity Policy and Practice](#), and the NSF Director's [commitment](#) earlier this year to improve NSF's transparency and properly engage the community in its SOGI efforts moving forward.

Thank you for your time and consideration of this request.

Yours sincerely,



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