

# LGBTQI+ People and the ACS

## Privacy and Confidentiality

The American Community Survey (ACS) is a nationwide survey conducted monthly by the U.S. Census Bureau that collects and produces information on the social, economic, housing, and demographic characteristics of our nation's population. Unlike the decennial census that is conducted only every 10 years, the ACS produces data annually and asks more questions than the census to provide vital information about people across the country. The data are used to allocate trillions of dollars in funding, enforce civil rights laws, develop evidence-based policies, and design programs that impact our health, economic security, and wellbeing.

In September 2023, the Census Bureau announced plans for rigorous research and testing about how best to include questions about sexual orientation and gender identity on the ACS, allowing LGBTQI+ people to explicitly identify themselves as members of our communities. As with any survey or request to provide information, it is important to understand the privacy and confidentiality protections in place for the ACS. Once a person completes the ACS, their data are combined with data from millions of other people who responded, and the Census Bureau produces statistical tables and data sets for use by researchers, governments, community-based organizations, and the public. **This is different from an individual's ACS responses, which are strictly confidential - meaning one's individual responses (and any information that could be used to identify them) will not be shared with anyone.** This is especially important given the ways in which LGBTQI+ people are experiencing heightened attacks on their personal safety and actions to undermine civil rights.

- The ACS has the strongest confidentiality protections for data collection in federal law. Your responses are treated differently from other data you may provide to a government agency.
- It is against federal law for the Census Bureau or its employees to share your personal information with anyone, including Immigration and Customs Enforcement, police, or any other government agencies. They also cannot share your information with private companies (such as your employer), landlords, or any other private or nonprofit organization — in other words, *anyone* outside of the Census Bureau directly involved in data collection and processing.
- The Census Bureau can only use your responses to create general information about the population, like how many people live in your city, and statistics about age, gender, race, and disability.

### The ACS asks a lot of personal questions. How will my answers be used?

Since 1954, federal law prohibits the Census Bureau from using ACS results for any reason other than for statistical purposes. It is against the law for the Bureau or its employees to disclose or publish any private information that identifies an individual. Your answers cannot be shared with anyone, including other federal agencies and law enforcement entities. The Bureau is only concerned with collecting information for data analysis.

### Who has access to my answers?

The Census Bureau is not allowed to release personally identifiable information about an individual to any

other individual or agency until 72 years after it was collected. Even further, census laws prohibit anyone other than sworn Bureau employees—on a need-to-know basis—from looking at individuals' survey answers. (This means that even the Census Bureau Director cannot look at your answers!) To be clear, this prohibition includes anyone outside of the Census Bureau, including other government agencies. This means it is illegal for the Bureau to share individual responses with agencies such as the Department of Justice (DOJ), the Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), and the Department of Urban and Housing Development (HUD), and it is illegal for anyone in those other federal agencies to view individual responses. Anyone who violates Title 13 of the Census Act faces stiff penalties: up to five years in

prison, \$250,000 in fines, or both.

The current confidentiality protections for ACS and census data are the strongest in federal law and collected data are treated differently from other data you may provide to a government agency.

The Census Bureau is particularly attentive to the ways in which people living in rural communities or places where they are different from their neighbors may worry about being identified through public use files. In 2020, the Bureau began employing a scientific data confidentiality method called "differential privacy" to ensure that a single respondent could not be identified based on particular demographic information like where they live, age, sex, race and ethnicity, or profession.

## Can I get in legal trouble based on my responses to the census survey?

No. The Census Bureau only collects information for statistical purposes and cannot share individual's responses with other federal, state, or local agencies. Furthermore, the Bureau does not cross-reference answers to the ACS with any other personally identifiable information you may have provided on other surveys, sources, or documents, including birth certificates or driver's licenses. So, it is okay if your answers on the ACS don't match answers you've put on other federal or official surveys or documents. In addition, census laws prohibit any information you provide on a Census Bureau survey or census from being used against you for any reason.

The Bureau respects how people self-identify on the census and ACS, so people should answer as best they can according to how they self-identify. There are no right or wrong answers; the Bureau will accept the answer you select. Transgender, non-binary, and many other LGBTQI+ people navigate disclosure every day of their lives. The ACS is no different; respondents can self-identify in a way that feels most comfortable. It should be noted that because the ACS is a household-based survey, youth and others living in a home will have their responses provided by one person, typically the homeowner or primary resident, such as a parent.\*

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## But aren't there census laws in place that punish fraud?

Census law indicates that any person or business that "willfully gives any answer that is false" on the survey may be fined up to \$500. This law is not intended to punish people who answer the questions in a way that better reflects who they are with regard to their name, sex, or other characteristics. Instead, the point of this law is to make sure that each household only submits one survey, which ensures that everyone is fairly and accurately counted, and to prevent fraudulent answers to economic surveys.

## Should I be worried about hackers when filling out the census survey electronically?

You can respond to the ACS online, through a paper form, and by phone. Online responses can be filled out through a computer, tablet, or smartphone. The Bureau has measures in place to protect against system threats, ensure all data are encrypted (so no other agency or entity can view individual survey responses), and implement strong cybersecurity practices. There were *no* hacking incidents during the 2020 Census, the first census to offer broad online response; the ACS has used online response since 2012 with no breach of the systems.

## What should I tell someone who has privacy and confidentiality concerns around filling out the census?

**We cannot continue to be left out of the ACS and decennial census.** Our communities and our lives depend on programs like Medicaid, food stamps, schools and housing vouchers that are funded based on ACS results. Our access to democracy depends on our full representation in ACS data. And our civil rights depend on enforcement of the law using ACS data.

For anyone with concerns about their privacy, let them know that:



The U.S. Census Bureau and its employees are prohibited from sharing individual responses and personally identifiable information with anyone else, including other government agencies.



It is illegal for anyone who is not part of the Bureau to view individual responses to the ACS.



ACS data **cannot** be used to enforce any type of law, including for housing, public benefits, or immigration enforcement.



It is illegal for the Bureau or any other federal agency to use ACS responses or data to the detriment of those who respond to the survey.

Even with all these protections, LGBTQI+ people may be understandably fearful that their ACS responses could be used to harm them or their families and friends. Fortunately, there has never been a breach of census confidentiality laws and protections. Potential loopholes in the law during World War II led Congress to amend the laws to provide airtight protections against disclosure of any personal or household responses and a second layer of protection against any personal responses being used against any individual or household by any government or private entity or in a court of law. Civil rights and legal experts continue to monitor implementation of census privacy laws to protect our communities over the long term.

\*Young children are frequently undercounted by the ACS, as are communities of color, renters, and people experiencing housing insecurity.