

How is New Content Added to the American Community Survey?

Pursuant to requests from federal agencies, the U.S. Census Bureau is currently exploring ways to improve data collection on LGBTQI+ communities by adding new questions to the American Community Survey (ACS). Modifying or adding questions onto the ACS requires extensive testing, review, and evaluation over a multi-year period in order to ensure changes are necessary and will produce quality, useful data about the population. This explainer provides more information about the deliberative process that the Census Bureau and other federal agencies must follow to add new content to the ACS.

What is the American Community Survey (ACS)?

Conducted by the Census Bureau, the American Community Survey (ACS) is an ongoing, monthly survey of 3.5 million addresses that collects critical information about the social, economic, housing, and demographic characteristics of communities across the country. ACS data inform policy decisions and help guide the annual allocation of roughly \$2.8 trillion in federal funding for critical programs and services that impact every community.¹ ACS data provide vital information about the health, housing, and economic security of the U.S. population, and are also used by federal agencies to ensure equal opportunity and enforce civil rights laws that protect people from discrimination.

What can ACS data tell us about LGBTQI+ communities?

Currently, the ACS only includes questions that allow for same-sex couples living in the same household to identify themselves. Unfortunately, the current question design results in significant information gaps about LGBTQI+ communities: people who are married to or live with their same-sex partner only represent approximately 1 in 6 LGBTQI+ adults.² Improving and expanding the collection of ACS data on sexual orientation, gender identity, and variations in sex characteristics.

How is new content added to the ACS?

There is an established, deliberative process that must be completed in order for the Census Bureau to add or change any content on the ACS.³ To initiate that process, the Census Bureau must determine that new questions meet at least one of three criteria:⁴

- A federal law *mandates* the collection of the data in the decennial census or ACS;
- The data are *required* to implement, monitor, or enforce a federal policy or statute, and the census or ACS are the historic or only reasonable sources for the data; or
- The data are needed to comply with a federal court order or decision.

Although timing may vary, the overall process can be broken down into four major stages: proposal, testing, evaluation, and decision.⁵

<p>PROPOSAL STAGE</p>	<ul style="list-style-type: none"> • A federal agency proposes new or revised survey question(s) by submitting a request that includes an explanation of its legal or programmatic need for the data. • In consultation with the federal agency that requested the content, the Census Bureau and U.S. Office of Management and Budget (OMB) determine whether the request has merit.
<p>TESTING STAGE</p>	<ul style="list-style-type: none"> • After identifying ways to ask the question(s), the Census Bureau conducts cognitive interviews to ensure respondents understand the wording and terminology, and the question(s) generates accurate results. • The Census Bureau researches question wording, solicits public comment on test design for the proposed new or modified question(s) through a Federal Register Notice as required under the Paperwork Reduction Act, and conducts a field test to see how the question(s) performs.

<p>EVALUATION STAGE</p>	<ul style="list-style-type: none"> • The Census Bureau and the requesting agency evaluate the test results and decide whether to recommend implementation of the new or changed survey question(s). • The Census Bureau solicits public comments on the proposed new or modified question(s) through a Federal Register Notice (FRN), a requirement of the Paperwork Reduction Act.
<p>DECISION STAGE</p>	<ul style="list-style-type: none"> • A final decision on question wording and format is made in consultation with OMB and Interagency Council on Statistical Policy Subcommittee on the ACS. • The Census Bureau seeks final approval from OMB through a second FRN. If approved, the Census Bureau implements the changes to the ACS questionnaire, usually at the start of a calendar year.

What is the current status of efforts to improve data collection on LGBTQI+ communities through the American Community Survey?

In 2022, the U.S. Department of Justice (DOJ) submitted a letter to the Census Bureau formally requesting sexual orientation and gender identity measures be added to the ACS, and articulating the legal and programmatic justifications for collecting data on LGBTQI+ populations. These justifications include needing better data to enforce civil rights laws to ensure equal opportunity and protect LGBTQI+ people from discrimination.⁶ The letter from the DOJ started the *proposal* stage. Because the Census Bureau and OMB determined the request had legal merit, the process is now entering the *testing* phase.

In September 2023, the Census Bureau published a Federal Register Notice (FRN) requesting that OMB approve its plan to conduct a test of sexual orientation and gender identity measures on the ACS.⁷

The Bureau’s current proposed survey questions and methodology draw on decades of research and evidence about how best to ask sexual orientation and gender identity questions on general population surveys, including a 2022 National Academies of Science, Engineering, and Medicine (NASEM) report and guidance from OMB about how to include these measures on federal surveys. While the current FRN does not propose to test measures to identify intersex people,⁸

future tests could assess such measures, which the National Academies report also urges federal agencies to consider.⁹

While the recommended sexual orientation and gender identity measures do not always look like those included on surveys designed exclusively for LGBTQI+ people, the Census Bureau is testing measures that reflect best practices for asking these questions on surveys where they will be answered by both LGBTQI+ and non-LGBTQI+ people alike in order to produce quality, usable data. Given the importance of the ACS for providing vital data about our country’s population and the vast number of ways the data are used, it is critical that the Census Bureau conduct this rigorous qualitative and quantitative research to evaluate how sexual orientation and gender identity measures perform in the field and whether these questions can be added effectively to the ACS in the future. Similarly, it will be important for the Census Bureau to repeat this process in the coming years to consider measures that can identify intersex people.

Still have questions? Want to know more about the ACS?

If you have questions about LGBTQI+ data inclusion or the ACS and Census Bureau work specifically, please [visit this hub for more information](#) or contact:

Caroline Medina, Director of Policy, Whitman-Walker Institute:
cmedina@whitman-walker.org

Naomi Goldberg, Deputy Director, Movement Advancement Project:
naomi@mapresearch.org

1. See U.S. Census Bureau, “Uses of decennial census programs data in federal funds distribution: fiscal year 2021,” available at: <https://www.census.gov/content/dam/Census/newsroom/press-kits/2023/20230614-webinar-presentation-federal-funding.pdf>.
2. Caroline Medina and Lindsay Mahowald, “Collecting Data About LGBTQI+ and Other Sexual and Gender-Diverse Communities” (Washington: Center for American Progress, 2022), available at <https://www.americanprogress.org/article/collecting-data-about-lgbtqi-and-other-sexual-and-gender-diverse-communities/>.
3. U.S. Census Bureau, “How a Question Becomes Part of the American Community Survey”, available at <https://www.census.gov/content/dam/Census/library/visualizations/2017/comm/acs-questions.pdf>
4. Funders’ Committee for Civic Participation, “Looking to Census 2030: Findings and Recommendations from Census 2020 Partners and Funders” (Washington: Funders Committee for Civil Participation, 2021), available at <https://funderscommittee.org/looking-to-census-2030/>
5. U.S. Census Bureau, “How a Question Becomes Part of the American Community Survey”, available at <https://www.census.gov/content/dam/Census/library/visualizations/2017/comm/acs-questions.pdf>
6. Lo Wang, H. & Rascoe, A. (2023, September 2024). An Annual Survey from the Census Bureau Aims for Better Data on LGBTQ+ Population, available at <https://www.wesa.fm/2023-09-24/an-annual-survey-from-the-census-bureau-aims-for-better-data-on-the-lgbtq-population>
7. Federal Register, 88 (180) (2023): 64404-64407, available at <https://www.federalregister.gov/documents/2023/09/19/2023-20256/agency-information-collection-activities-submission-to-the-office-of-management-and-budget-omb-for>
8. So far, DOJ has broadly requested the Census Bureau collect data on LGBTQI+ populations, but has been less specific about requesting ACS measures to identify intersex people. Notably, DOJ and other agencies have repeatedly stated in policy guidance that their interpretation of the *Bostock* decision applies equally to discrimination against individuals based on their sex characteristics, including intersex traits.
9. National Academies of Sciences, Engineering, and Medicine, “Measuring Sex, Gender Identity, and Sexual Orientation” (Washington: The National Academies Press, 2022), available at <https://www.nap.edu/catalog/26424/measuring-sex-gender-identity-and-sexual-orientation>.

How is New Content Added to the American Community Survey?

Pursuant to requests from federal agencies, the U.S. Census Bureau is currently exploring ways to improve data collection on LGBTQI+ communities by adding new questions to the American Community Survey (ACS). Modifying or adding questions onto the ACS requires extensive testing, review, and evaluation over a multi-year period in order to ensure changes are necessary and will produce quality, useful data about the population. This explainer provides more information about the deliberative process that the Census Bureau and other federal agencies must follow to add new content to the ACS.

What is the American Community Survey (ACS)?

Conducted by the Census Bureau, the American Community Survey (ACS) is an ongoing, monthly survey of 3.5 million addresses that collects critical information about the social, economic, housing, and demographic characteristics of communities across the country. ACS data inform policy decisions and help guide the annual allocation of roughly \$2.8 trillion in federal funding for critical programs and services that impact every community.¹ ACS data provide vital information about the health, housing, and economic security of the U.S. population, and are also used by federal agencies to ensure equal opportunity and enforce civil rights laws that protect people from discrimination.

What can American Community Survey (ACS) data tell us about LGBTQI+ communities?

Currently, the ACS only includes questions that allow for same-sex couples living in the same household to identify themselves. Unfortunately, the current question design results in significant information gaps about LGBTQI+ communities: people who are married to or live with their same-sex partner only represent approximately 1 in 6 LGBTQI+ adults.² Improving and expanding the collection of ACS data on sexual orientation, gender identity, and variations in sex characteristics

(SOGISC) is essential to better understand the experiences and needs of LGBTQI+ communities, so they can be better reflected in government policies, programs, funding investments, and enforcement of civil rights laws.

How is new content added to the American Community Survey (ACS)?

There is an established, deliberative process that must be completed in order for the Census Bureau to add or change any content on the ACS.³ To initiate that process, the Census Bureau must determine that new questions meet at least one of three criteria:

- A federal law mandates the collection of the data in the decennial census or ACS
- The data are required to implement, monitor, or enforce a federal policy or statute, and the census or ACS are the historic or only reasonable sources for the data
- The data are needed to comply with a federal court order or decision.⁴

Although timing may vary, the overall process can be broken down into four major stages:

1. **proposal**,
2. **testing**,
3. **evaluation**, and
4. **decision**.⁵

1 PROPOSAL STAGE

- A federal agency proposes new or revised survey question(s) by submitting a request that includes an explanation of its legal or programmatic need for the data.
- In consultation with the federal agency that requested the content, the Census Bureau and U.S. Office of Management and Budget (OMB) determine whether the request has merit.

Footnotes (cont'd on next page)

1. See U.S. Census Bureau, "Uses of decennial census programs data in federal funds distribution: fiscal year 2021," available at: <https://www.census.gov/content/dam/Census/newsroom/press-kits/2023/20230614-webinar-presentation-federal-funding.pdf>. This estimate is based on the use of Decennial Census Programs data, including data produced by the decennial census, the American Community Survey, geographic programs supporting the decennial census and ACS, and related programs such as the annual population estimates.
2. Caroline Medina and Lindsay Mahowald, "Collecting Data About LGBTQI+ and Other Sexual and Gender-Diverse Communities" (Washington: Center for American Progress, 2022), available at <https://www.americanprogress.org/article/collecting-data-about-lgbtqi-and-other-sexual-and-gender-diverse-communities/>.
3. U.S. Census Bureau, "How a Question Becomes Part of the American Community Survey", available at <https://www.census.gov/content/dam/Census/library/visualizations/2017/comm/acs-questions.pdf>.
4. Funders' Committee for Civic Participation, "Looking to Census 2030: Findings and Recommendations from Census 2020 Partners and Funders" (Washington: Funders Committee for Civil Participation, 2021), available at <https://funderscommittee.org/looking-to-census-2030/>.
5. *ibid.*

2

TESTING STAGE

- After identifying ways to ask the question(s), the Census Bureau conducts cognitive interviews to ensure respondents understand the wording and terminology, and the question(s) generates accurate results.
- The Census Bureau researches question wording, solicits public comment on test design for the proposed new or modified question(s) through a Federal Register Notice as required under the Paperwork Reduction Act, and conducts a field test to see how the question(s) performs.

-agency Council on Statistical Policy Subcommittee on the ACS.

- The Census Bureau seeks final approval from OMB through another FRN. If approved, the Census Bureau implements the changes to the ACS questionnaire, usually at the start of a calendar year.

What is the current status of efforts to improve data collection on LGBTQI+ communities through the American Community Survey?

In 2022, the U.S. Department of Justice (DOJ) submitted a letter to the Census Bureau formally requesting sexual orientation and gender identity measures be added to the ACS, and articulating the legal and programmatic justifications for collecting data on LGBTQI+ populations. These justifications include needing better data to enforce civil rights laws to ensure equal opportunity and protect LGBTQI+ people from discrimination.⁶ The letter from the DOJ started the proposal stage. Because the Census Bureau and OMB determined the request had legal merit, the process is now entering the testing phase.

In September 2023, the Census Bureau published a Federal Register Notice (FRN) requesting that OMB approve its plan to conduct a test of sexual orientation and gender identity measures on the ACS.⁷

The Bureau's current proposed survey questions and methodology draw on decades of research and evidence about how best to ask sexual orientation and gender identity questions on general population surveys, including a 2022 National Academies of Science, Engineering, and Medicine (NASEM) report and guidance from OMB about how to include these measures on federal surveys. While the current FRN does not propose to test measures to identify intersex people, future tests could assess such measures, which the National Academies report also urges federal agencies to consider, as do data inclusion advocates.⁸

While the recommended sexual orientation and gender identity measures do not always look like those included on surveys designed exclusively for LGBTQI+ people, the Census Bureau is testing measures that reflect best practices for asking these questions on surveys where they will be answered by both LGBTQI+ and non-LGBTQI+ people alike in order to produce quality, usable data. Given the importance of the ACS for providing vital data about our country's population and the vast number of ways the data are used, it is critical that the Census Bureau conduct this rigorous qualitative and quantitative research to evaluate how sexual orientation and gender identity measures perform in the field and whether these questions can be added effectively to the ACS in the future. Similarly, it will be important for the Census Bureau to repeat this process in the coming years to consider measures that can identify intersex people.

3

EVALUATION STAGE

- The Census Bureau and the requesting agency evaluate the test results and decide whether to recommend implementation of the new or changed survey question(s).
- The Census Bureau solicits public comments on the proposed new or modified question(s) through a Federal Register Notice (FRN), a requirement of the Paperwork Reduction Act.

4

DECISION STAGE

- A final decision on question wording and format is made in consultation with OMB and Inter—

Still have questions? Want to know more about the ACS?

If you have questions about LGBTQI+ data inclusion or the ACS and Census Bureau work specifically, please [visit this hub](#) for more information or contact:

- Caroline Medina (they/them): cmolina@whitman-walker.org
- Naomi Goldberg (she/her): naomi@mapresearch.org



6. Lo Wang, H. & Rascoe, A. (2023, September 2024). An Annual Survey from the Census Bureau Aims for Better Data on LGBTQI+ Population, available at <https://www.wesa.fm/2023-09-24/annual-survey-from-the-census-bureau-aims-for-better-data-on-the-lgbtq-population>

7. Federal Register, 88 (180) (2023): 64404-64407, available at <https://www.federalregister.gov/documents/2023/09/19/2023-20256/agency-information-collection-activities-submission-to-the-office-of-management-and-budget-omb-for>

8. So far, DOJ has broadly requested the Census Bureau collect data on LGBTQI+ populations, but has been less specific about requesting ACS measures to identify intersex people. Notably, DOJ and other agencies have repeatedly stated in policy guidance that their interpretation of the *Bostock* decision applies equally to discrimination against individuals based on their sex characteristics, including intersex traits.