

May 30, 2022

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Office of Planning, Research, and Evaluation
Administration for Children and Families
U.S. Department of Health and Human Services
4th Floor, Mary E. Switzer Building
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Washington, D.C. 20201

Re: Submission for OMB Review: OPRE Data Collection for State Child Welfare Data Linkages Descriptive Study (New Collection) (April 28, 2022) [87 FR 25275]

Dear Ms. Jones,

Thank you for the opportunity to comment on the proposed information collection at 87 FR 25275 on *OPRE Data Collection for State Child Welfare Data Linkages Descriptive Study (New Collection)*. Family Equality and the Movement Advancement Project are nonprofit organizations committed to advancing equality for lesbian, gay, bisexual, transgender, and queer (LGBTQ+) children, families, and individuals.

We strongly urge the Administration for Children and Families (ACF) to require data collection on sexual orientation and gender identity (SOGI) for foster children by integrating questions about SOGI into existing demographic data collection, intake, service planning, and case review processes so that it can be incorporated into any linked data sets on child maltreatment. Collection of this data is crucial to improving services and outcomes for LGBTQ+ youth in the foster care system. As you move forward with the State Child Welfare Data Linkages Descriptive Study, this is an important opportunity to ask questions about SOGI data and to offer recommendations for collection in the work with state child welfare agencies and other agencies.

Meaningful Improvements to the Child Welfare System Require Consistent and Reliable Information About the Population of Children in Care, Their Needs, and Their Experiences.

A. LGBTQ+ Youth Are Disproportionately Represented in Foster Care and Experience Worse Conditions and Outcomes Within the System.

Available data shows that LGBTQ+ youth are disproportionately represented in the foster care system with one in three foster youth identifying as LGBTQ+. ¹ Once in the system, LGBTQ+

¹ This statistic comes from three localized studies and is not an effective substitute for nationally representative SOGI data collection. The lack of national SOGI data on LGBTQ+ children in foster care obfuscates the harms and inequities LGBTQ+ youth

youth experience mistreatment at higher rates than their non-LGBTQ+ counterparts including multiple placements, educational instability, and homelessness. LGBTQ+ youth reported being segregated, stigmatized, isolated, and institutionalized based on their gender expression and sexuality.² LGBTQ+ youth in care also suffer from worse health outcomes, including disproportionately high levels of suicidal ideation and attempts.³ A 2013 study of Los Angeles County's foster care system found that 13.47% of LGBTQ+ youth in foster care had been hospitalized for emotional reasons, as compared to 4.25% of nonLGBTQ+ youth.⁴ A recent report by the Trevor Project showed that LGBTQ foster youth were three times as likely to have attempted suicide in the past year than LGBTQ youth who were never in foster care.⁵ Given the overwhelming consensus that LGBTQ+ youth need to be better served by the child welfare system and the fact that information about a population is necessary to effectively serve it, the collection of sexual orientation and gender identity data is critical to improving the welfare and outcomes of LGBTQ+ youth.

B. Data on Sexual Orientation and Gender Identity is Critical to Understanding and Improving the Welfare of LGBTQ+ Youth.

The disproportionate representation of LGBTQ+ youth in the foster care system and the worse outcomes they experience relative to their peers underscore the need for data collection on sexual orientation and gender identity. Basic information critical to formulating policies and practices to promote the welfare of LGBTQ+ youth is often missing, as agencies are not required to collect information necessary to understand how many LGBTQ+ youth are in foster care, their demographics and status, and their experiences in care. Understanding the contours and dimensions of the challenges faced by the uniquely vulnerable population of LGBTQ+ youth in care is the first step in effectively addressing their needs. Put simply, it is exceedingly difficult to solve problems we can't quantify.

face in child welfare and is a barrier to effectively remedying the inequities. See Laura Baams, Bianca D.M. Wilson, & Stephen T. Russell, *LGBTQ Youth in Unstable Housing and Foster Care*, 143(3): e20174211 *Pediatrics* (2019), available at: <https://pediatrics.aappublications.org/content/pediatrics/early/2019/02/07/peds.2017-4211.full.pdf>; Megan Martin, Leann Down, & Rosalynd Erney, *Out of the Shadows: Supporting LGBTQ youth in Child Welfare Through Cross-System Collaboration*, Center for the Study of Social Policy (2016), available at: <https://cssp.org/resource/out-of-the-shadows/>; Theo G. M. Sandfort, *Experiences and Well-Being of Sexual and Gender Diverse Youth in Foster Care in New York City : Disproportionality and Disparities*, Administration for Children's Services (2020), available at: <https://www1.nyc.gov/assets/acs/pdf/about/2020/WellBeingStudyLGBTQ.pdf>; Marlene Matarese, Angela Weeks, Elizabeth Greeno, & Paige Hammond, *The Cuyahoga youth Count: A Report on LGBTQ+ Youth Experience in Foster Care*, The Institute for Innovation and Implementation (2021), available at: <https://theinstitute.umaryland.edu/institute-news/study-finds-overrepresentation-of-lgbtq-youth-in-midwestfoster-care-system.php>

² Bianca D.M. Wilson, Khush Cooper, Angeliki Kastanis, & Sheila Nezhad, *Sexual and Gender Minority Youth in Foster care: Assessing Disproportionality and Disparities in Los Angeles*, The Williams Institute (2014), available at: <https://williamsinstitute.law.ucla.edu/publications/sgm-youth-la-foster-care/>

³ Julia Raifman, et al., "Sexual Orientation and Suicide Attempt Disparities Among US Adolescents: 2009–2017," 145 *PEDIATRICS* 3, (March 1, 2020), available at <https://pediatrics.aappublications.org/content/145/3/e20191658> (adolescents identifying as sexual minorities more than three times as likely to attempt suicide relative to heterosexual counterparts).

⁴ Wilson, et al., *supra* n.1

⁵ The Trevor Project, "The Trevor Project Research Brief: LGBTQ Youth with a History of Foster Care." (May 2021) available at https://www.thetrevorproject.org/wpcontent/uploads/2021/05/LGBTQ-Youth-with-a-History-of-Foster-Care_-May-2021.pdf.

Including sexual orientation and gender identity information in data collection and in linked data sets would enable policymakers, advocates, and child welfare agencies to identify trends in the numbers and types of placements, and rates of disruption, as well as health, education, and other disparities among LGBTQ+ foster youth.⁶ Informed by that data, policymakers, advocates, and child welfare agencies could develop policies, programs, and practices to address specific problems. Data about the experiences and outcomes of LGBTQ+ youth in foster care also helps advocates and agencies articulate the need for policies aimed at avoiding or mitigating particular harms. When advocates and agencies propose policies, practices, or legislation aimed at reducing the entry of LGBTQ+ youth into the foster care system or improving outcomes of those already in care, they invariably face questions that are difficult or impossible to answer without this data.

Not only is consistent collection of aggregated sexual orientation and gender identity information necessary to inform policy and direct resources at the federal and state level, but the local child welfare agencies who collect the data can use it to create effective, individualized case plans and offer targeted services to improve the experiences of LGBTQ+ youth and families. A newly released report for the U.S. Government Accountability Office found the same need for data collection and recommended that ACF, “provide additional information to states on data collection for LGBTQ+ foster youth and how youth’s gender identity should inform placement decisions.”⁷ We encourage ACF to use the State Child Welfare Data Linkages Study as an opportunity to begin implementing GAO’s recommendation and including SOGI data elements as they move forward in creating, managing, and using linked data sets.

Conclusion

The collection and use of sexual orientation and gender identity data is an essential component to addressing disparities and improving outcomes for LGBTQ+ youth in foster care. ACF must ensure that this information is included at every level of data collection, as well as in any linked data sets. We strongly urge ACF to begin collecting data on the sexual orientation and gender identity of foster youth in order to better understand and address the experiences and needs of children in care.

Much of the information in this comment is derived from previously submitted recommendations to the Biden-Harris administration, which can be viewed at:

Brief for Family Equality and National Center for Lesbian Rights as Amicus Curiae, *California Tribal Families Coalition, et al., v. Xavier Becerra*, 3:20-CV-6018-MMC, available at

⁶ See Andrew D. Pinto, et al., *Routine collection of sexual orientation and gender identity data: a mixed-methods study*, 191 CANADIAN MED. ASS’N J. at E63 (Jan. 21, 2019), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6336479> (“[D]ata [about patients’ sexual orientation] can help organizations identify health inequities related to sexual orientation and gender identity.”).

⁷ U.S.. Government Accountability Office, *GAO-22-104688, Foster Care: Further Assistance from HHS Would be Helpful in Supporting Youth’s Identities and Religious Beliefs*, (April, 2022), available at <https://www.gao.gov/assets/gao-22-104688.pdf>

https://www.familyequality.org/wp-content/uploads/2021/07/FE_Becerra_2021.06.2987-Amicus-Brief-filed603816538.1.pdf? ga=2.216182160.760595274.1653323629-1215702128.1645641717& gac=1.49215828.1649784290.Cj0KCQjwxtSSBhDYARIsAEn0thRMfseKXdjhUmU3YCo2ToY3uxrvDVB Sm2fMUoU0PAdKr8eb32uTPqAaAipiEALw_wcB

Comment by the Every Child Deserves a Family Campaign, *Request for Information: Methods and Leading Practices for Advancing Equity and Support for Underserved Communities Through Government* (May 5, 2021) [86 FR 24029] available at, <https://www.regulations.gov/comment/OMB-2021-0005-0108>

Every Child Deserves a Family Campaign Recommendations for the US Department of Health and Human Services, *Achieving Equity for LGBTQI+2S People and Other Marginalized Groups in Child Welfare* (March 2022) available at, <https://everychilddeservesafamily.com/transition-recommendations>

Sincerely,



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Family Equality



Naomi Goldberg
Deputy Director
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