

July 6, 2021

Shalanda Young
Acting Director
The Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

Submitted via <https://www.regulations.gov/>

Dear Acting Director Young,

As advocates for women's and girls' rights, equity, justice, health, and safety, the 59 undersigned organizations write to respond to the Office of Management and Budget's Request for Information, FR Doc # 2021-09109, regarding Executive Order 13985, *Executive Order On Advancing Racial Equity and Support for Underserved Communities Through the Federal Government* (EO 13985). This letter speaks to Area 1 on equity assessments and strategies.

We are heartened by the Biden-Harris administration's executive order on equity and applaud its efforts to utilize the power of the executive branch to advance equity for underserved communities. A critical first step in developing, enacting, and enforcing policies to advance equity is to understand the diverse array of people's experiences. Such understanding begins with accurately counting, collecting, and reporting data about the many diverse populations across the United States. Such information can inform policymakers about disparities and discrimination that may exist among communities in the country and help to develop equitable solutions that would enable all to truly thrive.

Over the past year and a half, women and girls of color, and women and girls more generally, have been struggling. Though the overall unemployment rate has dropped in recent months, more than one in 12 Black women (8.5%) and nearly one in 12 Latinas ages 20 and over (7.9%) were unemployed in June 2021.¹ Since the onset of the pandemic, millions of women and families have lost employment income, face food insufficiency, and are behind on their rent or mortgage payments². Women were more likely to have gone without needed health care during the pandemic as compared to men, and Latinas, Native American women and Black women still lag far behind in health insurance coverage³, which means they may have gone without much-needed care during a global health crisis. Reproductive health care has been pushed out of reach for too many, especially people of color, with the pandemic—and anti-abortion politicians' crusade to ban abortion—only exacerbating existing barriers to care. Black girls

¹ CLAIRE EWING-NELSON & JASMINE TUCKER, NAT'L WOMEN'S LAW CTR., 97% OF WOMEN WHO RETURNED TO THE LABOR FORCE IN JUNE ARE UNEMPLOYED AND LOOKING FOR WORK 1 (Jul. 2021), <https://nwlc.org/resources/97-of-women-who-returned-to-the-labor-force-in-june-are-unemployed-and-looking-for-work/>.

² NAT'L WOMEN'S LAW CTR., NWLC ANALYSIS OF U.S. CENSUS BUREAU COVID-19 HOUSEHOLD PULSE SURVEYS, <https://nwlc.org/resources/nwlc-analysis-of-u-s-census-bureau-covid-19-household-pulse-surveys/> (last visited Jul. 6, 2021).

³ NAT'L WOMEN'S LAW CTR., HEALTH INSURANCE COVERAGE BY STATE (Mar. 3, 2021), <https://nwlc.org/resources/health-insurance-coverage-by-state/>.

continued to face discriminatory discipline and pushout⁴ during an already challenging virtual school year, replicating the discipline disparities of in-person learning. Where some Black girls were able to return to school, they were met with school police violence⁵ that not only caused physical harm, but also exacerbated the trauma and anxieties of going back to school during a global pandemic.

Although the American Rescue Plan Act of 2021 (ARPA) is delivering desperately needed support to millions of women and families who have been impacted by COVID-19 and its related recession and will help start the process of building an equitable recovery, short-term relief is not enough. Ensuring an equitable recovery will also require addressing both the long-term impacts of the COVID-19 recession and the deep underlying flaws in our economy and our nation's existing systems and structures, which made the pandemic disproportionately devastating for women of color, and women overall.

Yet even before the pandemic, women and girls have been at greater risk of economic insecurity and denial of education access and opportunity throughout their lives, especially women of color and women who are low-income, homeless, LGBTQ, older, immigrants, or have a disability. COVID-19 exacerbated deep, longstanding structural flaws in our economy and systems that contribute to women's economic insecurity, including persistent and pervasive racial and gender wage gaps across the economy, women's overrepresentation in poorly paid jobs, lack of caregiving supports, and disproportionate lack of access to health insurance and health care that meets their needs. Despite living at the intersection of these issues, pregnant and parenting students have been further isolated by the pandemic as they strive to continue their education at home without institutional supports. COVID-19 also exposed that, time and again, girls of color and their needs for support are left out of local and national conversations about school safety. Without further action, these structural flaws will continue to undermine women's economic security, safety, and wellbeing even after the COVID-19 recession—and the pandemic itself—is over.

It is not sufficient to go back to the way things were before the pandemic, when structures and systems were not working for so many. The systemic barriers in place were already forcing too many women, girls, those with low incomes, LGTBQ individuals, immigrants, and/or those with disabilities to the brink of economic insecurity and constraining their access to health care. Instead, the Biden-Harris administration should embrace the goal of ensuring an equitable recovery from the pandemic where all people, particularly those who face multiple forms of discrimination, can truly thrive and not just get by.

Any path to an equitable recovery from the pandemic and towards dismantling the many longstanding systemic barriers starts with accurate data, research, and analysis. The Biden-Harris administration should strive to collect data in a consistent manner on the basis of race/ethnicity, sex, sexual orientation, gender identity, disability status, and other key measures in order to allow policymakers and the public an accurate understanding of disparate experiences and barriers to well-being across communities and to shape policies to forward equitable solutions. This includes:

⁴ JODI S. COHEN, A TEENAGER DIDN'T DO HER ONLINE SCHOOLWORK. SO A JUDGE SENT HER TO JUVENILE DETENTION, PROPUBLICA (Jul. 14, 2020), <https://www.propublica.org/article/a-teenager-didnt-do-her-online-schoolwork-so-a-judge-sent-her-to-juvenile-detention>.

⁵ ADAM POULISSE, SCHOOL RESOURCE OFFICER WHO USED TASER ON EUTIS HIGH SCHOOL STUDENT NOT FACING DISCIPLINE, STUDENT ARRESTED, WFTV9ABC (Jan. 28, 2021), <https://www.wftv.com/news/local/lake-county/school-resource-officer-who-used-taser-eustis-high-school-student-not-facing-discipline-student-arrested/3D2JJI64Q5FRHOE5S4DACWUZ2M/>.

- **Race/Ethnicity Data:** The federal government’s failure to collect race/ethnicity data with a high level of precision and consistency has resulted in government data being formulated without a full picture of the experiences of distinct communities and in the erasure of some communities. For example, the Census requires respondents of Middle Eastern or North African descent to self-identify their race from categories that may not reflect their identities. The label Hispanic or Latino does not distinguish the differences among Mexican, Puerto Rican, Cuban, and many other groups of people. The label Asian American does not distinguish the differences among Chinese, Laotian, Cambodian, Indian, Nepalese, Vietnamese, and many other groups. The federal government often does not even collect information for smaller-size communities such as Native Hawaiians, Alaskan Natives, American Indian, and Pacific Islander in a consistent manner. In order to capture more accurate data for all communities in the United States, the federal government should:
 - Add new and more nuanced racial and ethnic categories throughout its efforts to collect data from individuals to allow them to self-identify with more precision. For instance, federal standards for the collection of demographic data on AAPIs should aim to collect information on all 50+ of the community’s distinct groups through checkbox/free-response options so that policymakers consider every distinct community in key decisions. In addition, measures to allow persons to select more than one race or ethnicity will support Latinos/as who claim multiple heritages, such as Afro-Latinos, Asian American Latinos, and Indigenous Latinos.
 - Remove the word “other” in the “Native Hawaiian and Other Pacific Islander” category in all federal data collection standards, including for the U.S. Census. This word contributes to a sense of invisibility, otherizes Pacific Islanders, and flattens the great diversity among Pacific Islander communities.
 - Oversample respondents from smaller-sized populations and subgroups, including the AAPI population, Latino subpopulations, and Indigenous communities, in order to have statistically significant inferences about such communities.
 - Require the Census Bureau to include Puerto Rico and other territories as part of its regular national population counts and all of its data sets, including the Current Population Survey and the Economic Census.
 - Disaggregate the data collected.
- **LGBTQI Communities:** Compared with the general population, LGBTQ⁶ communities face disproportionate economic hardships, higher rates of poverty and unemployment, income gaps, and greater vulnerability to homelessness and food insecurity.⁷ Institutional and systemic

⁶ While this comment calls for data collection on sexual orientation, gender identity, and intersex status (LGBTQI), this comment may also refer to other acronyms, such as LGBT or LGBTQ, depending on the language used or population(s) studied in the referenced data source.

⁷ Williams Institute, “Socioeconomic indicators,” available at <https://williamsinstitute.law.ucla.edu/visualization/lgbt-stats/?topic=LGBT#economic> last accessed June 2021; Badgett, M. V. L., Choi, S. K., & Wilson, B. D. M., (2019, October). LGBT poverty in the United States: A study of differences between sexual orientation and gender identity

discrimination in employment, the labor market, and housing create barriers that narrow critical pathways to economic advancement and negatively contribute to the economic security and financial wellbeing of LGBTQ individuals and their households.⁸ For LGBTQI people living at the intersection of multiple marginalized identities, such as LGBTQI people of color, these disparities and challenges are even greater.⁹ The Biden-Harris administration should expand and enhance efforts to collection demographic information on sexual orientation, gender identity, and intersex status in order to inform equitable public policy strategies. Collecting SOGI and intersex status data will bring visibility to the experiences of LGBTQI people and support intersectional analysis of LGBTQI communities of color, persons with disabilities, rural communities and other populations.

- Immigrant data: Many federal datasets fail to include data disaggregated by foreign- vs. U.S.-born status in addition to race/ethnicity which makes it impossible to understand the unique and intersectional lived experiences of and challenges faced by individuals who are both racial/ethnic minorities as well as immigrants. These challenges may be different from and more complex than the challenges faced by U.S.-born individuals. Therefore it is essential that these are captured through comprehensive data collection.

groups. Los Angeles, CA: The Williams Institute, available at <https://williamsinstitute.law.ucla.edu/wp-content/uploads/National-LGBT-Poverty-Oct-2019.pdf>; Wilson, B.D.M. & Conron, K. (April, 2020). National Rates of Food Insecurity among LGBT People: LGBT People and Covid-19. Los Angeles, CA: The Williams Institute, available at <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Food-Insecurity-COVID19-Apr-2020.pdf>; Wilson, B. D. M., Choi, S. K., Harper, G. W., Lightfoot, M., Russell, S., & Meyer, I.H. (2020). Homelessness among LGBT adults in the U.S. Los Angeles, CA: Williams Institute, available at <https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-Homelessness-May-2020.pdf>; National Academies of Sciences, Engineering, and Medicine, “Understanding the Wellbeing of LGBTQI+ Populations” (Washington: 2020), available at <https://www.nap.edu/read/25877/chapter/1>; Adam P. Romero, Shoshana K. Goldberg, and Luis A. Vasquez, “LGBT People and Housing Affordability, Discrimination, and Homelessness” (Los Angeles: University of California School of Law, 2020), available at <https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-Housing-Apr-2020.pdf>; Caroline Medina, Sharita Gruberg, Lindsay Mahowald, and Theo Santos, “Improving the Lives and Rights of LGBTQ People in America” (Washington: Center for American Progress, 2020), available at <https://www.americanprogress.org/issues/lgbtq-rights/reports/2021/01/12/494500/improving-lives-rights-lgbtq-people-america/>; Movement Advancement Project and National LGBTQ Workers Center, “LGBT People in the Workplace: Demographics, Experiences and Pathways to Equity” (Washington: 2019), available at <https://www.lgbtmap.org/file/LGBT-Workers-3-Pager-FINAL.pdf>.

⁸ National Academies of Sciences, Engineering, and Medicine, “Understanding the Wellbeing of LGBTQI+ Populations” (Washington: 2020), available at <https://www.nap.edu/read/25877/chapter/1>; Badgett, M. V. Lee, Christopher S. Carpenter, and Dario Sansone. 2021. "LGBTQ Economics." *Journal of Economic Perspectives*, 35 (2): 141-70, available at <https://www.aeaweb.org/articles?id=10.1257/jep.35.2.141>.

⁹ See “Anti-LGBTQ Discrimination Inflicts Disproportionate Harm on People of Color,” available at https://www.thetaskforce.org/wp-content/uploads/2021/06/LGBTQ_Discrimination_PR.pdf (last accessed June 2021); Choi, S.K., Wilson, B.D.M. & Mallory, C. (2021). Black LGBT Adults in the U.S. LGBT Well-Being at the Intersection of Race. Williams Institute: Los Angeles, CA, available at <https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-Black-SES-Jan-2021.pdf>; Wilson, B.D.M., Gomez, A. G. H., Sadat, M., Choi, S.K., & Badgett, M. V. L. (2020, October). Pathways In to Poverty: Lived Experiences among LGBTQ People. Los Angeles, CA: The Williams Institute, available at <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Pathways-Overview-Sep-2020.pdf>; Sharita Gruberg, Lindsay Mahowald, and John Halpin, “The State of the LGBTQ Community in 2020: A National Public Opinion Study” (Washington: Center for American Progress, 2020), available at <https://www.americanprogress.org/issues/lgbtq-rights/reports/2020/10/06/491052/state-lgbtq-community-2020/>; The National LGBTQ Anti-Poverty Action Network, “Poverty at the End of the Rainbow,” available at <https://nclr.turtl.co/story/poverty-at-the-end-of-the-rainbow/> (last accessed June 2021).

- **Age:** While data may exist related to age, it is often not disaggregated and cross tabulated with race/ethnicity, sex, sexual orientation, gender identity and disability across the life span from birth to death. This leaves critical data gaps in identifying those most at risk and most in need of support, making invisible the challenges they face. Without this data it is impossible to pinpoint communities that experience disparities and disproportionate levels of adversity, and prevents decisionmakers, service providers and those who advocate for these communities to customize supports and services that meet their unique needs and potential.
- **Violence:** Gender-based violence should constitute a key area of data collection. Sexual and domestic violence is costly. According to the National Institutes of Health, the cost of sexual assault is \$122,461 per victim, including physical and mental health costs, lost productivity, criminal justice activities, and other costs. Gender-based violence not only destroys the lives of survivors, but it costs America trillions. Ongoing data collection should be comprehensive and encompass the many forms of gender-based violence, including the collection of disaggregated data to measure the prevalence of sexual assault and harassment and domestic violence and child witness to domestic violence. This would assist policy makers, funders and advocates in a more robust understanding of this epidemic, the societal toll, including economic and health impact, and assist in the allocation of resources and interventions. This effort should include collaboration with: National Institutes of Health (NIH) and Centers for Disease Control and Prevention (CDC) at the Department of Health and Human Services (HHS); National Institute of Justice (NIJ) and the Bureau of Justice Statistics (BJS) at the U.S. Department of Justice (DOJ); and the Office of Policy Development and Research (PD&R) at the U.S. Department of Housing and Urban Development (HUD).

In order to improve participation in data collection and accuracy in the data, the federal government must build trust among the people from whom data is collected. In collecting data, the federal government must ensure that participants understand what the data will be used for and outline the ways in which they will protect the data to prevent misuse or to otherwise harm communities in need. Researchers must also take care to ensure that the questions used to collect data are racially and culturally sensitive. The federal government must also ensure that it preserves the privacy and anonymity of survey respondents. In addition, where possible, the federal government should enable data to be cross-tabulated by multiple demographic characteristics (for example, by race/ethnicity and sex) in order to provide accurate information about specific groups of people (for example, women of color).

The following lays out in more detail our recommendations on how to collect, analyze, and disseminate data in a few areas key to measuring the disparities and discriminations experienced by women and girls.

Cross-Cutting Data Sources

We urge that the Biden-Harris administration improve its data collection, disaggregation, and reporting in the following ways:

- ***U.S. Census Bureau, Current Population Survey, Annual Social and Economic Supplement.*** The U.S. Census Bureau's Current Population Survey, Annual Social and Economic Supplement, serves as the primary annual source for key demographic, wage, poverty, and health insurance data. And while disaggregated data is available in this data source, the Census Bureau should

improve upon its data collection by: 1) fielding the data from respondents earlier in the year, such as in January or February, in order to disseminate results sooner, allowing researchers and policymakers to assess changes closer to real time; 2) sampling a larger number of people, especially Black women, Native American women, AAPI women, and immigrant women in order to allow for more adequate sample sizes and thus more confident reporting for groups such as these, especially if the data is further disaggregated by parental status, marital status, age, or other variables; 3) collecting sexual orientation and gender identity data, in order to better assess the intersectional impact on this group, and making this data available disaggregated by race/ethnicity and sex; 4) reinstating the CPS Table Creator in order to allow researchers to easily and quickly determine poverty rates, wage gaps, health insurance, and more information for groups by race, ethnicity, gender, state, immigrant, and disability status as well as sexual orientation and gender identity as specified in recommendation 3 above; and 5) providing data in the Supplemental Poverty Measure report on those who are lifted out of poverty by specific programs by race/ethnicity, sex, sexual orientation, gender identity, and age.

- **U.S. Census Bureau, American Community Survey.** The Census Bureau’s American Community Survey is a robust annual dataset that allows for disaggregated data on poverty, income, health insurance coverage, and more at the state level. The Census Bureau should improve this survey by 1) making the data available sooner in order to allow researchers and policymakers the ability to assess key demographic shifts closer to real time; 2) sampling a larger number of people, especially Black women, Native American women, AAPI women, and immigrant women, especially in smaller states, so that researchers and policymakers can confidently report information for groups such as these, especially if the data is further disaggregated by parental status, marital status, age, or other variables; 3) collecting sexual orientation and gender identity data, making such data available disaggregated by race/ethnicity and sex, and testing how to collect data on intersex people; 4) continuing to provide public access to ACS microdata and halt plans to replace ACS microdata with “fully synthetic” data, which would compromise researchers’ and lawmakers’ ability to study small population groups on a variety of demographic and economic indicators; and 5) adding questions that ask respondents to indicate whether they are the policyholder for their insurance coverage, or whether their coverage is provided through a spouse or other family member. Similar questions are currently included in the Current Population Survey (CPS) Annual Social and Economic Supplement and give data users valuable detail on insurance coverage across employment status, occupation, and demographic indicators. Adding these questions to the ACS would allow for corresponding analyses to be performed at a more granular level (including among smaller demographic groups and in smaller states).
- **U.S. Census Bureau Household Pulse Survey.** The Census Bureau’s Household Pulse Survey is an important dataset that measures the impact of COVID-19 on households in terms of lost income, food scarcity, housing insecurity, mental health, child care and more. It also includes questions about the COVID-19 vaccine, stimulus payments, and telework. Although this dataset already allows for disaggregated data by race and sex, the Census Bureau can improve this dataset by: 1) asking respondents whether children under 18 present in the household are their own children, in order to determine parental hardship, and detailing the number of children present who are under five years old, five to 12 years old, and 13 to 17 years old; 2) defining “household” clearly

for respondents;¹⁰ 3) collecting sexual orientation and gender identity data, including an option for nonbinary people (possibly also the ability to disaggregate with race/ethnicity and sex); 4) publishing microdata files weekly instead of bi-weekly; and 5) improving the health insurance coverage question by first asking, “Are you currently covered by any health insurance or health coverage plans?” with yes or no as the only response options, which would make it easier to identify coverage gaps, while subsequent questions could then ask what type of coverage respondents have.

- ***The Office of Management and Budget:*** Nearly twenty-five years ago, the Office of Management and Budget (OMB) developed standardized questions on race and ethnicity required for reporting by federal agencies and recipients of federal funds. OMB advises collecting race and ethnicity data using two questions, with ethnicity being collected first. Currently, racial data collection categories are Black/African American, White, American Indian/Alaska Native, Asian, Native Hawaiian/Other Pacific Islander and ethnic data collection categories are Hispanic/Latino or not Hispanic/Latino. As discussed in relation to other datasets, the OMB should collect data using additional and more nuanced race and ethnicity categories. These categories ignore entire populations, perpetuate systemic injustices, and treat as monolithic distinct demographic characteristics.¹¹ As discussed in relation to other datasets, OMB should also disaggregate the five broad categories in which data is currently collected into additional and more nuanced race and ethnicity categories.

Child Care

Equitable access to stable, high-quality child care is essential to children’s healthy development, parents’ ability to work or obtain education or participate in other critical activities, and the economy’s ability to thrive. Yet, many parents struggle to afford child care costs. At the same time, child care workers—who are predominantly women and disproportionately women of color—are paid poverty-level wages. The median wage for child care workers is just \$12.24 per hour,¹² and Black and Latina child care workers typically make even less than their white peers.¹³ Significant new public investments in child care—to expand assistance to families to help them afford child care and to boost child care workers’ compensation—would address this dilemma in a way that relieves the burdens on both families and child care workers. More timely, disaggregated data would make it possible to assess gaps in the current child care assistance program, to identify any inequities in families’ and child care providers’ opportunities to participate in the program and the extent of support they receive, and to address those gaps and inequities.

¹⁰ One potential definition that the Pulse survey could use would be that used by the Current Population Survey: <https://www.census.gov/programs-surveys/cps/technical-documentation/subject-definitions.html#household>.

¹¹ Id.

¹² U.S. Bureau of Labor Statistics, Occupational Employment and Wages, May 2020: Childcare Workers (2021), <https://www.bls.gov/oes/current/oes399011.htm>.

¹³ Claire Ewing-Nelson and Julie Vogtman, One in Eight Child Care Jobs Have Been Lost Since the Start of the Pandemic, and Women Are Paying the Price, National Women’s Law Center (June 2021), <https://nwlc.org/resources/sector-report-child-care-workers/>; Lea J.E. Austin, Bethany Edwards, Raúl Chávez, and Marcy Whitebook, Racial Wage Gaps in Early Education Employment, Center for the Study of Child Care Employment (December 2019), <https://cscce.berkeley.edu/racial-wage-gaps-in-early-education-employment/>.

We urge the Biden-Harris administration to pursue the following measures to improve its data collection and reporting:

- ***U.S. Department of Health and Human Services, Office of Child Care, Child Care and Development Fund statistics.*** Child Care and Development Fund (CCDF) statistics provide crucial information about the children and families receiving child care assistance through CCDF and the child care providers receiving CCDF funds to serve these children and families. However, while data on the race and ethnicity of the children are collected, this information is not collected on providers, which limits the ability to assess the degree to which funds are distributed equitably. In addition, there is a time lag in the publication of the compiled data—for example, FY 2019 data were only just published in May 2021. The Office of Child Care could improve this dataset and its usefulness by: 1) collecting data on the race, ethnicity, and sex of child care providers receiving CCDF subsidy and/or quality funds broken down by type of provider; 2) disaggregating this data; and 3) publishing the compiled data on a more timely basis.

Education Equity & Access

Independent research shows that Black and Native American girls face some of the largest barriers to educational opportunities due to racism and sexism that are embedded in school discipline policies and practices, codes of conduct, and dress codes.¹⁴ In the 2017-2018 school year, Black girls were four times more likely to receive out-of-school suspensions, four times more likely to be expelled, and nearly four times more likely to be arrested at school compared to white girls.¹⁵ And in other recent school years, Black girls made up 20% of girls enrolled in preschools but accounted for 53% of out-of-school suspensions for girls.¹⁶ When this disaggregated data is not easily accessible or accurate on the U.S. Department of Education’s Civil Rights Data Collection (CRDC) website, stakeholders are less able to identify that Black girls are overrepresented in all aspects of school discipline and, therefore, less able to take corrective action that improves learning environments for Black girls and all historically marginalized students. Additionally, pregnant and parenting students, who are more often women and girls of color, are routinely pushed out of educational programs and denied access to supports, such as transportation and child care, that are necessary to allow them to complete their education. Without frequent and widespread data collection that disaggregates based on pregnancy and parenting status, it is incredibly difficult to identify this population’s unique challenges and which interventions best promote enrollment and school completion for pregnant and parenting students.

We urge the Biden-Harris administration to pursue the following measures to improve its data collection and reporting:

- ***U.S. Department of Education, Civil Rights Data Collection (CRDC), Discipline Data.*** The CRDC is a crucial tool that schools, districts, local and federal policymakers, and other stakeholders use to identify the experience of certain groups of students (such as Black girls) and make

¹⁴ See Nat’l Women’s Law Ctr. & The Educ. Trust, “...and they cared”: *How to Create Better, Safer Learning Environments for Girls of Color 2* (2020), https://nwlc.org/wp-content/uploads/2020/08/FINAL_NWLC_EDTrust_Guide.pdf [hereinafter “...and they cared”].

¹⁵ Georgetown Law Center on Poverty & Inequality, *Data Snapshot: 2017-2018 National Data on School Discipline by Race and Gender* (2020), <https://genderjusticeandopportunity.georgetown.edu/wp-content/uploads/2020/12/National-Data-on-School-Discipline-by-Race-and-Gender.pdf>.

¹⁶ “...and they cared”, *supra* note 14, at 2.

recommendations on how schools can provide safety and equal access to a quality education to all students. However, the most recent national estimations readily available to the public are from the 2015-2016 school year,¹⁷ even though public-use data files are available from the 2017-2018 school year. Stakeholders cannot use the 2015-2016 data to account for and make decisions responsive to the educational needs of today. Moreover, the education civil rights data does not currently account for students' multi-dimensional identities and how some may experience discrimination based on a combination of different aspects of their identities. For example, the CRDC does not disaggregate reported data by pregnant or parental status, despite the fact that becoming pregnant is a primary reason teen girls do not graduate from high school.¹⁸ The Department of Education should improve the CRDC by: 1) increasing the frequency of this data collection from bi-annual to annual; 2) collecting, disaggregating, and cross-tabulating data by sex, race/ethnicity, native language, socioeconomic status, English learner status, disability status, disability type, sexual orientation, gender identity, and pregnancy or parenting status; 3) extending such data collection, disaggregation, and cross-tabulation to preschools, as data in recent years has shown disproportionalities in rates of discipline doled out to preschool students of color, especially Black girls; and 4) taking stronger measures to ensure full and accurate compliance with the data collection.

- **Department of Education, Integrated Postsecondary Educational Data System (IPEDS).** Currently, IPEDS releases annual aggregate data reported by every institution that received federal financial aid. However, IPEDS does not collect data on the parental status of students even though more than one in five college students are parenting and more than two-thirds of those parenting are women.¹⁹ Black women are more likely to be student-parents than their white peers.²⁰ Independent data shows parenting students are less likely to complete their degrees than non-parenting college students.²¹ This is not due to personal failing but rather a lack of institutionalized support. In fact, parenting students often earn higher GPAs than their classmates without children.²² Regularly collected data on parental status in postsecondary institutions allows us to understand which supports help parenting students complete their programs of study. The Department of Education should regularly collect and release IPEDS data on parental status to allow institutions to measure progress in serving student-parents.
- **U.S. Department of Justice, Bureau of Justice Statistics, New Data Collection on SRO Misconduct.** The Bureau of Justice Statistics (BJS) has the authority to collect and analyze statistical information related to the operations of the criminal justice systems at the Federal,

¹⁷ U.S. Dep't of Educ., *2015-16 State and National Estimations*, CIVIL RIGHTS DATA COLLECTION, <https://ocrdata.ed.gov/estimations/2015-2016> (last visited June 9, 2021).

¹⁸ John M. Bridgeland, John J. Dilulio, Jr. & Karen Burke Morison, Bill & Melinda Gates Foundation, *The Silent Epidemic: Perspectives of High School Dropouts* (2006), 6, available at <https://docs.gatesfoundation.org/documents/thesilentepidemic3-06final.pdf>.

¹⁹ [Lindsey Reichlin Cruse](#), [Tessa Holtzman](#), [Barbara Gault](#), [David Croom](#) and [Portia Polk](#) Student Parents in College: By the Numbers, , Institute for Women's Policy and Research, April 11, 2019 <https://iwpr.org/iwpr-issues/student-parent-success-initiative/parents-in-college-by-the-numbers/>

²⁰ *Id.*

²¹ Renee Ryberg, Rachel Rosenberg, Jessica Warren, Higher Education Can Support Parenting Students and their Children with Accessible, Equitable Services, Child Trends, January 11, 2021, <https://www.childtrends.org/publications/higher-education-support-parenting-students-and-their-children-with-accessible-equitable-services>

²² *Id.*

State, and tribal levels.²³ BJS is also authorized to make grants or enter agreements or contracts with public agencies, institutions of higher education, private organizations, or private individuals to carry out such data collections and analyses.²⁴ Plus, BJS has the authority to work with and request information from other Federal agencies to collect data.²⁵ However, BJS does not currently collect data on school police misconduct. Media reports, however, have documented numerous instances of school police misconduct including harassment and physical abuse of Black girls.²⁶ For example, a school resource officer (SRO) arrested an 11-year-old Black girl in New Mexico in 2019 for taking too much milk in the cafeteria and being disruptive.²⁷ A 6-year-old Black girl in Orlando was arrested by school police in 2019 for throwing a tantrum.²⁸ However, the public remains unaware of the scale of this apparently ongoing, systemic problem without one uniform collection of this data that is publicly available and accessible—leaving Black girls without adequate relief from this misconduct and proper support in schools. The Department of Justice BJS should create a new data collection on the prevalence of reported misconduct by SROs or other school law enforcement. This data must include information relating to the victim of the misconduct, disaggregated and cross-tabulated by sex, race/ethnicity, native language, socioeconomic status, English learner status, disability status, disability type, sexual orientation, gender identity, and pregnancy or parental status. This data would not include personally identifiable information. BJS should work with the Department of Education’s National Center for Education Statistics (NCES) to develop and execute this new data collection as it does with other school-related surveys and data collections. An alternative to a completely new data collection could be that BJS works with NCES to add a survey on school police misconduct as a data source for the annual Indicators of School Crime and Safety report.

Immigration

Data disaggregated by immigration status (U.S. versus foreign-born, not documentation status) are not only key to understanding the diverse economic experiences of women of color, but are also necessary in shedding light on their health and wellbeing. Disaggregated data on immigrant communities is needed to understand the realities of these communities and the barriers they face in leading lives with dignity in the United States, particularly in accessing social services and health care. Data on

²³ Justice System Improvement Act of 1979, 34 U.S.C. § 10131 et seq. (2018).

²⁴ *Id.* § 10132(c)(1).

²⁵ *See id.* § 10132(d).

²⁶ *See, e.g.,* Adam Poulisse, *School Resource Officer Who Used Taser on Eustis High School Student Not Facing Discipline, Student Arrested*, WFTV9ABC (Jan. 28, 2021), <https://www.wftv.com/news/local/lake-county/school-resource-officer-who-used-taser-eustis-high-school-student-not-facing-discipline-student-arrested/3D2JJI64Q5FRHOE5S4DACWUZ2M/>; Jodi S. Cohen, *A Teenager Didn’t Do Her Online Schoolwork. So a Judge Sent Her to Juvenile Detention.*, PROPUBLICA (Jul. 14, 2020), <https://www.propublica.org/article/a-teenager-didnt-do-her-online-schoolwork-so-a-judge-sent-her-to-juvenile-detention>; Katie Shepherd, *‘She was just mouthing off’: 13-Year-Old Who Pointed a Finger Gun at Four Classmates Faces Felony Charge*, WASH POST (Oct. 11, 2019), <https://www.washingtonpost.com/nation/2019/10/11/year-old-finger-gun-felony-charges-kansas/>; Tom Jones, *Video Shows School Officer Slam Girl into Wall While Breaking up Fight*, WSB-TV2 (Aug. 20, 2019), <https://www.wsbtv.com/news/local/newton-county/video-shows-school-officer-slam-girl-into-wall-while-breaking-up-fight/977763035/>.

²⁷ P.R. Lockhart, *Police officer resigns after video shows him using excessive force on an 11-year-old girl*, VOX (Oct. 24, 2019), <https://www.vox.com/identities/2019/10/24/20929397/police-officer-excessive-force-school-11-year-old-girl-new-mexico>.

²⁸ Luke Darby, *Florida Police Officer Arrested and Handcuffed a 6-Year-Old Black Girl for a Tantrum in Class*, GQ (Sept. 23, 2019), <https://www.gq.com/story/six-year-old-black-girl-arrested-for-a-tantrum>.

immigrant communities should be disaggregated by age, sex, gender identity, and other characteristics. Data collection and methods that disaggregate populations by characteristics, such as country or region of origin, length of time or period of arrival, and other proxies, such as languages spoken at home may be able to reflect the complexity of factors that influence the lives of immigrant women who are Black, Indigenous, and/or people of color. The federal government when seeking to develop data collection tools and developing research on immigrant communities should engage immigrants and trusted community partners in research design. Any research efforts must maintain confidentiality and privacy and ensure that data is not shared with law or immigration enforcement agencies.

We urge the Biden-Harris administration to pursue the following measures to improve its data collection and reporting:

- Federal standards for the collection of demographic data on AAPIs should aim to collect information broken down by immigrant status with an emphasis on data transparency on the H-4 visa granting process. This applies to datasets including but not limited to the American Community Survey (ACS), the Current Population Survey (CPS), Longitudinal Employer-Household Dynamics (LEHD), Bureau of Labor Statistics (BLS) data, and the Medical Expenditures Panel Survey (MEPS). It is important to note that we do not recommend collecting data on immigration based on documentation status as that is a sensitive and private topic; instead, we recommend that immigration status be ascertained by asking the following two questions:
 - Was the individual born in the U.S. (yes/no)?
 - If selected “no” above, how long ago did the individual move to the U.S.?
- Federal, state, and local data on health care utilization and outcomes should aim to collect information broken down by immigrant status in the format outlined above. In addition, translation of data collection instruments into languages spoken by immigrants with limited English proficiency, ensuring that questions on these forms are conceptually equivalent for all participants, and use of trained interviewers and/or third party interpreters will help facilitate immigrants with Limited English Proficiency to participate in research efforts. This applies to datasets including but not limited to the ACS, CPS, LEHD, BLS data, and MEPS.

Income Security Data

Women—especially Black women, Native American women, and Latinas, women with disabilities, immigrant women²⁹—and LGBTQ individuals³⁰—have long been disproportionately likely to experience poverty and hardship. These experiences are often the result of gender, racial, and other forms of discrimination across education, housing, health care, employment, tax, and other economic systems and structures. Unfortunately, government data sources do not always provide the ability to disaggregate economic data and often fails to collect data for certain populations (e.g., LGBTQI people),

²⁹ Amanda Fins, NWLC, National Snapshot: Poverty among Women & Families, 2020 (Dec. 2020), available at <https://nwlc.org/wp-content/uploads/2020/12/PovertySnapshot2020.pdf>; <https://williamsinstitute.law.ucla.edu/publications/lgbt-poverty-us/>.

³⁰ O Spencer Watson, Oliver McNeil, and Bruce Broisman, “The Economic Well-Being of LGBT Adults in the U.S. in 2019,” Center for LGBTQ Economic Advancement & Research, June 2021, <https://lgbtq-economics.org/wp-content/uploads/2021/06/The-Economic-Well-Being-of-LGBT-Adults-in-2019.pdf>.

making it difficult or impossible to provide adequate quantitative data for populations facing multiple forms of discrimination and hardship. Some data is also released long after the agency collected the data, making it hard to analyze the impacts of particular policies and recommend timely interventions to mitigate/eliminate hardships. Disaggregated data is critically important to ensure that policymakers can identify the impacts of economic policies on women facing multiple forms of discrimination, and tailor policy responses to address disparate impacts.

We urge the Biden-Harris administration to pursue the following measures to improve its data collection and reporting:

- **Internal Revenue Service, Administrative Tax Data.** The Internal Revenue Service (IRS) currently provides data on tax expenditures by taxpayers' income levels and filing status. The lack of demographic information about the taxpayers who benefit from particular tax expenditures prevents researchers and policymakers from understanding more fully how tax benefits are distributed among different populations and communities. In order to assess how tax policy impacts racial and gender equity, the IRS should: 1) in consultation with the Census Bureau and the Social Security Administration, collect and report data on taxpayers' receipt of tax expenditures by race/ethnicity, sex, sexual orientation, gender identity, and disability status; and 2) collect this information in compliance with existing statutory protections of taxpayer privacy, including ensuring that information about individual taxpayers is not shared between agencies.
- **Social Security Administration, Income of the Population 55 and Older.** The Social Security Administration (SSA) previously published the *Income of the Population 55 and Older* report, which presented "detailed statistical information on the major sources and amounts of income for people aged 55 or older." The report highlighted the major sources of total income, including Social Security benefits, for individuals by age, sex, marital status, race, and Hispanic origin. SSA stopped publishing this report in 2016 (with the last set of tabulations based on 2014 data). This data was critical to demonstrating the importance of Social Security to women's economic security, including women of color. SSA should resume publishing *Income of the Population 55 and Older*, providing the most recent data first and gradually providing data for previous years. And because the source of this data was the U.S. Census Bureau, Current Population Survey, data should be made available by sexual orientation and gender identity, as mentioned above.
- **The Federal Reserve's Survey of Consumer Finances (SCF).** The SCF asks questions about assets, including small business and home ownership, that are relevant to the calculation of racial and gender wealth gaps. However, the SCF does not collect information by individual members of the household and does not report comprehensive demographic data. The SCF is one of the few data sets that provides measures of wealth, and it is critical to have disaggregated data in order to identify and address the pervasiveness of racial and gender wealth disparities. The Federal Reserve should improve the SCF by: 1) broadening existing data collection efforts such as conducting oversamples for smaller populations (e.g., Asian American or Pacific Islander, Native American/Eskimo/Aleut) on a regular basis to generate reliable estimates; 2) reporting data that can be broken down and correlated on race/ethnicity, sex, sexual orientation, and gender identity (this includes reporting data on racial categories beyond Black, White, Other and Hispanic); and 3) collecting and reporting data on the wealth owned by individuals within the household.

- ***The Census Bureau’s Survey of Income and Program Participation (SIPP)***. Like the SCF, the SIPP allows us to study household wealth in detail. Unlike the SCF, the SIPP *does* collect demographic and economic data -- including assets and liabilities -- for individual members of the household. Moreover, while the SCF is unique in its sampling of the wealthiest households, the SIPP more broadly covers working- and middle-class households, making it invaluable for analyzing wealth disparities by race/ethnicity and gender. Nonetheless, studies have shown that some SIPP-based measures of net worth differ significantly from estimates derived from the SCF, which has been called the “gold standard” for survey-based wealth data.³¹ In addition, there are concerns that the SIPP’s data by race/ethnicity may be less reliable because of small sample sizes. The Census Bureau should improve the SIPP by: 1) broadening existing data collection efforts such as conducting oversamples for smaller populations (e.g., Asian American or Pacific Islander, Native American/Eskimo/Aleut) on a regular basis to generate reliable estimates; 2) collecting and reporting data that can be broken down and correlated on race/ethnicity, sex, sexual orientation, and gender identity; and 3) better aligning some of the questions and concepts with their SCF counterparts, including expanding/adding detail to the scope of assets and liabilities covered.

Labor Force Measures

The elevated risk of poverty and hardship that women—especially Black women, Native American women, and Latinas, women with disabilities, and immigrant women face is due in significant part to their overrepresentation in jobs that have long been undervalued and underpaid,³² and to persistent racial and gender wage gaps that occur across almost all occupations and across income levels.³³ And the workplace conditions common in the low-paid jobs where women are overrepresented—such as last-minute scheduling practices, involuntary part-time work, and lack of paid leave and other benefits—also contribute to these gaps by making it extremely challenging to achieve economic stability, especially for those with unpaid caregiving responsibilities.³⁴ But government data sources do not always provide comprehensive information about workplace conditions—and as noted above, they do not consistently provide the ability to disaggregate economic data and often fail to collect data for certain populations (e.g., LGBTQI people), making it harder to accurately assess job quality and understand the experiences of populations facing multiple forms of discrimination on the job. Disaggregated data is critically important to ensure that policymakers can identify the impacts of labor and employment policies (or the lack thereof) on women across identities, and tailor policy responses to address disparate impacts.

We urge the Biden-Harris administration to pursue the following measures to improve its data collection and reporting:

³¹ Jonathan Eggleston and Michael Gideon, U.S. Census Bureau, April 24, 2021. “Evaluating Wealth Data in Wave 4 of the Redesigned 2014 Survey of Income and Program Participation” p. 3.

[<https://www.census.gov/content/dam/Census/library/working-papers/2021/demo/sehsd-wp2021-05.pdf>]

³² See, e.g., <https://nwlc.org/resources/when-hard-work-is-not-enough-women-in-low-paid-jobs/>; <https://williamsinstitute.law.ucla.edu/publications/impact-min-wage-ss-couples/>.

³³ <https://nwlc.org/wp-content/uploads/2019/09/Wage-Gap-Who-how.pdf>

³⁴ See, e.g., <https://nwlc.org/wp-content/uploads/2016/01/FINAL-Set-Up-To-Fail-When-Low-Wage-Work-Leopardizes-Parents%E2%80%99-and-Children%E2%80%99s-Success.pdf>.

- ***U.S. Department of Labor, Employment Situation Summary, Current Employment Statistics.*** The Current Employment Statistics (CES) is one half of the release that comes out when the monthly Employment Situation Summary is released and provides information about the number of jobs added or lost to the economy in a given month as well as changes by sector. The CES also provides job changes for women but does not provide any data by race/ethnicity. The Department of Labor should improve the CES by: 1) collecting information from employers on the sex and race/ethnicity, including more detailed race/ethnicity categories that would permit analysis of Asian American and Native American communities, of those who have been added or subtracted to payrolls by sector; and 2) cross-tabulating such data on a monthly basis. These data should be included in the regular monthly release which currently does not provide data disaggregated by race and gender for the Asian American or the Indigenous communities
- ***U.S. Department of Labor, State Employment and Unemployment Summary.*** The State Employment and Unemployment Summary provides us with critical state-level data on the number of jobs added or lost by the economy in a given month as well as changes by sector. But the current summary does not provide any data by sex or race/ethnicity. The Department of Labor should improve the State Employment and Unemployment Summary by collecting and reporting cross-tabulated data on employment and unemployment by state, sex, race/ethnicity, sexual orientation, gender identity, and disability status.
- ***U.S. Department of Labor, Employment and Training Administration, Characteristics of Unemployment Insurance Claimants.*** The Characteristics of Unemployment Insurance Claimants provides key information on who is claiming jobless benefits both at the national and state levels. However, the data is currently only available by race or by sex at the national and state level. The Department of Labor should improve this dataset by also collecting and reporting cross-tabulated data on claimants by race/ethnicity, sexual orientation, gender identity, and disability status at the national and state levels.
- ***U.S. Equal Employment Opportunity Commission, Employer Information Report (EEO-1) Component 2.*** Currently, companies confidentially and annually provide the EEOC with data about the sex and race/ethnicity of employees, by job category, via the Employer Information Report form (EEO-1), Component 1. In 2016 the EEOC also required companies with 100 or more employees to report confidentially to the agency employee pay by job category, gender, race, and ethnicity as part of their annual EEO-1 report, known as Component 2. In 2017 the Trump administration halted this initiative. Following litigation, the EEOC was ordered to collect compensation information from employers for 2017 and 2018, and did so, but the data has as yet neither been analyzed nor made available in an aggregated form to the public. In 2019, the EEOC revised the EEO-1 form to eliminate future Component 2 reporting. The EEOC should reinstate the Component 2 reporting requirement. This is the only source of employer-level compensation data, and analysis of the data can help identify wage gap and occupational segregation issues not only within a company, but also broad patterns across regions and industries, and is critical for enforcement. Publicly available aggregated data can provide important benchmarks for jobseekers and employees, shareholders, and companies. The EEOC also should analyze whether and how component 1 and component 2 of the EEO-1 might capture other important data including sexual orientation, gender identity, immigration, and/or disability status, and examine how to further disaggregate race/ethnicity data, including for AANHPI communities, individuals of Hispanic descent, and Middle Eastern and North African descent.

- **U.S. Census Bureau and U.S. Department of Labor, Bureau of Labor Statistics, Current Population Survey.** The monthly Current Population Survey (CPS) is one half of the release that comes out when the monthly Employment Situation Summary is released and provides key measures of the economy, such as labor force participation, unemployment rates, and more. It is also a vitally important source of labor force statistics, and periodic supplements further enhance CPS data on work and earnings. But more comprehensive and disaggregated data collection would expand the utility of the CPS in important ways.
 - **Union Membership.** While unions are beneficial for all workers, women particularly benefit from membership. Through collective bargaining, union members have been able to obtain higher and more equal wages, access to affordable benefits, the right not to be fired without cause, and critical health and safety measures. Union membership data are collected by the Census Bureau for the Bureau of Labor Statistics as part of the CPS. Data are currently broken out by sex, race/ethnicity, industry and occupation, state, and age. However, the Department should: 1) collect information by gender identity and sexual orientation; and 2) publish unionization tables that can be cross-tabulated to analyze, for example, unionization rates of women of a particular race/ethnicity within a particular industry.

- **Work Hours and Schedules.** Even before the pandemic, millions of people—disproportionately women and people of color—working in essential but low-paying jobs often had little notice of their work schedules, experienced last-minute shift cancellations that deprived them of vital income, and were given part-time hours when they needed full-time work to support their families. But the monthly CPS currently provides little insight into the prevalence and incidence of unstable and unpredictable work hours, and its measure of involuntary unemployment is flawed. The Census Bureau and the Bureau of Labor Statistics should improve the CPS by 1) adding survey questions on variability, advance notice, and input into respondent work schedules; 2) updating measures of involuntary part-time work/underemployment, which the CPS currently significantly underestimates (including by deeming all part-time work for child care reasons or other family obligations to be “voluntary” even if, for example, a parent would prefer to work more hours but cannot access child care);³⁵ and 3) adopting recommendations of the National Academies of Sciences, Engineering, and Medicine that recognize instability and unpredictability in work hours as a key feature of the job insecurity that the Contingent Worker Supplement to the CPS aims to capture³⁶. In addition, to ensure that we understand who is experiencing problematic work hours—and gain insight into why—it is critical that the data are disaggregated and can be cross-tabulated by demographic characteristics to the maximum extent possible, including, for example, sex, gender identity, sexual orientation, race/ethnicity, disability, and caregiver or parental status (including by child’s age). Sample sizes should be increased as needed to ensure sufficient representation.

³⁵ LONNIE GOLDEN & JAESEUNG KIM, CTR. FOR LAW AND SOC. POL’Y, THE INVOLUNTARY PART-TIME WORK AND UNDEREMPLOYMENT PROBLEM IN THE U.S. 1 (2020),

https://www.clasp.org/sites/default/files/publications/2020/08/GWC2029_Center%20For%20Law.pdf.

³⁶ THE NATIONAL ACADEMIES OF SCIENCES, ENGINEERING, AND MEDICINE, MEASURING ALTERNATIVE WORK ARRANGEMENTS FOR RESEARCH AND POLICY (2020), <https://www.nap.edu/read/25822/>.

- **Caregiver status.** While we know that caregiving responsibilities disproportionately impact women’s ability to join the labor force, additional data addressing the full impact of these responsibilities on labor force attachment and economic security are lacking. To address these shortcomings, the Department of Labor should include caregiving measures including but not limited to parental status in surveys and publish these results frequently. These measures should address to what degree caregiving for children, self, family or other loved ones impacts a person’s ability to work, the number of hours they work, the occupations they select, and their earnings. These data should be disaggregated by race, ethnicity, sex, sexual orientation, gender identify, and ability.

Youth Well-Being

Understanding the factors that influence positive outcomes and well-being of our youth is a national concern.[1] Not only is this of importance particularly to the well-being of girls and gender expansive youth but to their families, communities, and society. Social determinants such as safe housing, transportation, and neighborhoods; exposure to racism, discrimination, and violence; and access to quality education, job opportunities, nutritious foods and physical activity are just a few factors that directly impact child well-being. Unfortunately, girls of color, LGBTQ and gender expansive youth; children with varying immigration status; and children that are differently abled are negatively impacted disproportionately by these factors when compared to their peers, and yet they are most often invisible in research because of the lack of an intersectional approach to the disaggregation of data across a number of characteristics and conditions. For example, juvenile justice involved girls, who are disproportionately Black and Latinx, are more likely to report exposure to sexual violence and a host of adversities when compared to system involved boys[2]; LGBTQ youth are 5-10% of the youth population, but 20-40% of the homeless youth population[3]; children with learning disabilities are three times more likely to drop out of school compared to their non-disabled peers[4]; and children exposed to high levels of adversity and violence are at increased risk for a host of negative outcomes over the life course[5]. Disaggregating data by various social factors and populations will provide information needed to develop targeted, effective programs, policies and practices for those most in need.

We urge the Biden-Harris administration to pursue the following measures to improve its data collection and reporting:

[1] Healthy People 2030, Social Determinants of Health. US Department of Health and Human Services, Office of Disease Prevention and Health Promotion. Retrieved June 2021.

<https://health.gov/healthypeople/objectives-and-data/social-determinants-health>

[2] Baglivio, M.T., et. al., “The Prevalence of Adverse Childhood Experiences (ACE) in the Lives of Juvenile Offenders,” OJJP Journal of Juvenile Justice, vol. 3, no. 2 (2014): 1-23, 8,

<http://www.journalofjustice.org/JOJJ0302/JOJJ0302.pdf>

[3] Center for American Progress. Gay and Transgender Youth Homelessness by the Numbers, June 2010. Retrieved 6/29/21. <https://www.americanprogress.org/issues/lgbtq-rights/news/2010/06/21/7980/gay-and-transgender-youth-homelessness-by-the-numbers/>

[4] National Center for Learning Disabilities. February 1, 2017. The State of Learning Disabilities: Understanding the 1 in 5. Retrieved 6/29/2021. <https://www.nclid.org/research/state-of-learning-disabilities>.

[5] Centers for Disease Control and Prevention. Adverse Childhood Experiences (ACEs). Website: <https://www.cdc.gov/violenceprevention/aces/index.html>.

- **The Department of Health and Human Services (HHS), Administration for Children and Families (ACF), Children's Bureau (CB)** is responsible for the implementation and management of the Adoption and Foster Care Analysis and Reporting System (**AFCARS**). AFCARS collects case-level information from state and tribal IV-E (child welfare) agencies on all children in foster care and those who have been adopted with title IV-E agency involvement. AFCARS is the only data set that provides comprehensive national information on the demographic characteristics of adopted and foster children and their biological, foster and/or adoptive parents; the status of the foster care population; and the extent and nature of assistance provided by federal, state, and local adoption and foster care programs and the characteristics of the children to whom such assistance is provided. Title IV-E agencies are required to submit the AFCARS data twice per year based on two six-month reporting periods. As of October 2022, for the first time states will begin collecting data on the number of pregnant and parenting youth in the foster care system. Shortly after the Trump administration took office, the Children's Bureau began taking steps to reverse and restrict data elements and restrict, eventually resulting in a new final rule published in May 2020 with a far more limited set of data requirements and delaying the implementation of the new AFCARS data collection until October 1, 2022. It is imperative that HHS: 1) restore and expand the following data elements collected in AFCARS (including but not limited to): gender identity (for foster youth, foster parent, adoptive parents and guardians); sexual orientation (for foster youth, foster parent, adoptive parents and guardians); race and ethnicity (for foster youth, foster parent, adoptive parents and guardians); placement type; implementation of ICWA; educational stability; parenting status and number of children; juvenile justice involvement; and transition plan; and 2) cross tabulate the data based on gender identity, race/ethnicity, and age.
- **The U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention (OJJDP).** The Department of Justice, Office of Juvenile Justice and Delinquency collects and maintains numerous databases about youth. Independent analyses of data provided through OJJDP have identified unique exposures that negatively impact the well-being and outcomes of girls and disproportionately impact girls and gender expansive youth of color. However, data is often not collected, and when collected, not disaggregated based on disability status, SOGI, immigration status, and expanded categories of race/ethnicity. Under the Obama Administration OJJDP began disaggregating all data by gender, race and ethnicity for all decision points. Priority was placed on identifying and addressing the unique drivers of girls into the system. Additionally, the OJJDP Research Division provided technical assistance and support to jurisdictions and reform advocates on the analysis of the federally available data sets. However, under the Trump administration swiftly implemented a punitive approach to juvenile justice eliminating all efforts to reform the system from a gender and racial justice perspective. Moreover, the OJJDP research division was eliminated and the girls' reform work was halted in favor of a focus on providing more traditional direct services. The Department of Justice should require that the OJJDP: 1) restore the OJJDP Research Division; 2) return to the practice of disaggregating all data collected by OJJDP as established during the Obama Administration; and 3) expand upon its data collection by collecting data by age, race, ethnicity, sex, sexual orientation, gender identity, disability, and immigration status.
- **Center for Disease Control, Youth Risk Behavior Surveillance System.** The **Youth Risk Behavior Surveillance System (YRBSS)** is a key annual survey that could be used to gather more

information on the various forms of violence and adversity experienced by youth and adults within and across a variety of populations. The YRBSS monitors six categories of health-related behaviors that contribute to the leading causes of death and disability among youth and adults, including behaviors that contribute to unintentional injuries and violence, sexual behaviors related to unintended pregnancy and sexually transmitted diseases, including HIV infection, alcohol and other drug use, tobacco use, unhealthy dietary behaviors, and inadequate physical activity. YRBSS also measures the prevalence of obesity and asthma and other health-related behaviors plus sexual identity and sex of sexual contacts. The YRBSS is a system of surveys. It includes 1) a national school-based survey conducted by CDC and state, territorial, tribal, and 2) local surveys conducted by state, territorial, and local education and health agencies and tribal governments. All data should be disaggregated by age, race, ethnicity, sex, sexual orientation, gender identity, disability, and immigration status.

- **Center for Disease Control, Behavioral Risk Factor Surveillance System.** The **Behavioral Risk Factor Surveillance System (BRFSS)** is an annual national system of health-related telephone surveys that collect state data about U.S. residents regarding their health-related risk behaviors, chronic health conditions, and use of preventive services. BRFSS collects data in all 50 states as well as the District of Columbia and three U.S. territories. BRFSS completes more than 400,000 adult interviews each year, making it the largest continuously conducted health survey system in the world. This annual survey should be expanded to include sexual orientation and gender identity data and additional adversities or social factors known to impact health and well-being.

Reproductive Rights and Health

Numerous federal agencies collect and manage health related data, including the Centers for Disease Control and Prevention and the National Institutes of Health that provide national information about morbidity and mortality, the impact of various determinants of health, and national access to care and services. While basic demographic information is collected regularly, information regarding socioeconomic status, disability status, SOGI, immigration status and expanded race/ethnicity groups as previously recommended is often unavailable, even though studies continuously demonstrate significant variations in health outcomes across these various identities and categories of status. In addition, the types of outcomes operationalized as health is narrow and should instead be expanded. For example, psychosocial data is often missing from health outcome reports, but such data provides empirical information of the impacts of the social environment on a person's psychological and physiological condition.

We urge the Biden-Harris administration to pursue the following measures to improve its data collection and reporting:

- **U.S. Department of Health and Human Services Data (HHS):** HHS should compile the following data from each health-related program of each applicant for and recipient of health-related assistance under such program: race, ethnicity, sex, primary language, sexual orientation, disability status, gender identity, age, and socioeconomic status. HHS should at a minimum: 1) use section 3101 of the Public Health Service Act standards for data collection on sex, race/ethnicity, primary language, sexual orientation, gender identity, age, socioeconomic status, and disability status; 2) provide funding for information system upgrades in order to fully implement enhanced data collection, analysis, and reporting among race and ethnic groups; 3) require standardization and utilization of baseline race and ethnicity categories across all public

health data systems and ensure adequate funding to allow for such standardization; and 4) establish a centralized electronic repository of government data on factors related to the health and well-being of the population of the United States.

- **Centers for Disease Control and Prevention, Behavioral Risk Factor Surveillance System (BRFSS).** The BRFSS is the largest continuously conducted health survey system in the world, reaching over 400,000 adult respondents annually. It provides invaluable data for researchers and policymakers on health conditions, access to and use of preventive health services, and other health issues. This data currently allows researchers to examine data by race/ethnicity or gender, but not both. Currently, the BRFSS's Sexual Orientation and Gender Identity (SOGI) question module is optional, and forty states include these questions in their administration of the survey.³⁷ Data from states that do administer the SOGI module has yielded important insight into health disparities affecting LGBT people, and data from the SOGI module has been included in over 125 peer-reviewed publications.³⁸ The CDC should improve the BRFSS by: 1) mandating that all states include the SOGI module in order to ensure that researchers and policymakers can comprehensively study health disparities at the national level; and 2) collecting and reporting cross-tabulated data on respondents by sex, race/ethnicity, sexual orientation, gender identity, disability status, disability type, and socioeconomic status at the national and state levels.
- **Center for Disease Control, National Center for Health Statistics, Vital Statistics.** Accurate and timely vital statistics data are imperative to assessing the overall well-being of women and girls. Currently key data points, including public use [birth and mortality data](#) from the Center for Disease Control's National Center for Health Statistics are running 2-3 years behind in data availability, with 2019 as the most recent year of data for many vital statistics datasets³⁹. The federal government does provide data briefs and reports based on provisional data to provide topline numbers more rapidly, but the public must wait much longer to use these data to answer other research questions. This means that questions such as the impact of the COVID-19 pandemic on birth rates or which interventions are succeeding in reducing racial disparities in maternal and infant deaths cannot be answered on a national scale in real time, which harms policymakers and researchers' ability to craft policy and respond to issues impacting women and girls in a timely manner. The National Center for Health Statistics should: 1) make available their provisional data to the public at the same time that they release topline findings; 2) distribute cross-tabulated data on vital health statistics in a more timely fashion after collecting the data; 3) add in topline broken down by more axes of diversity to the topline findings; 4) assess revising data collection mechanisms to make them more inclusive of expanded axes of diversity; and 5) explore how to make different data sets more linkable to each other.
- **Centers for Medicare and Medicaid Services. (CMS).** Electronic health records (EHRs) are a critical means for capturing and analyzing demographic and health outcomes data. The HHS Office of the National Coordinator for Health Information Technology (ONC) established visionary and robust standards for certified EHR technology back in 2015 that enable the

³⁷ NAT'L LGBT CANCER NETWORK, ADVANCING SEXUAL ORIENTATION/GENDER IDENTITY (SOGI) MEASURES IN THE BEHAVIORAL RISK FACTOR SURVEILLANCE SYSTEM (BRFSS) 1, 1 (2021), <https://cancer-network.org/wp-content/uploads/2021/04/BRFSS-Justification-Sheet-April-2021-version-2-3.pdf>.

³⁸ KERITH CONRON, THE WILLIAMS INST., A STATEMENT ON THE NEED FOR SOGI DATA COLLECTION IN THE BRFSS 1, 1 (2021), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Comment-SOGI-BRFSS-Apr-2021.pdf>.

³⁹ NAT'L VITAL STAT. SYS., BIRTH DATA, CDC (2021), [NVSS - Birth Data \(cdc.gov\)](#).

collection of standardized and fully disaggregated data on race and ethnicity, language, sexual orientation, gender identity and social and behavioral risk factors. While the use of these ONC standards is incentivized in CMS' Quality Payment Program, requirements related to disaggregated data collection have not been fully or adequately implemented in relevant policy programs. CMS should immediately require and incentivize ONC's 2015 Edition standards for collecting disaggregated data for all hospitals and for all CMS quality programs. Additionally, CMS should continue to encourage and incentivize through its quality programs, the secure, electronic and interoperable exchange of health information between individuals, their families and their health care providers. These policies improve health and care and are particularly important to women, who make about 80 percent of health care decisions and provide nearly two-thirds of family caregiving in our nation.

Conclusion

We appreciate the Biden-Harris administration's commitment to equity and its efforts to utilize the power of the executive branch to advance equity for underserved communities. We would welcome the opportunity to discuss any of these issues with you and look forward to working with you to advance equity for all.

If you have any questions about the content of this comment, please reach out to Anna Chu at achu@nwlc.org and Jasmine Tucker at jtucker@nwlc.org.

Sincerely,

The National Women's Law Center	Feminist Majority Foundation	Oregon Coalition for Equal Access for Girls
Closing the Women's Wealth Gap	Futures Without Violence	Pace Center for Girls
National Latina Institute for Reproductive Justice	Gathering Strength Collective: Immigrant + Refugee Women's Race + Gender Equity	Physicians for Reproductive Health
National Asian Pacific American Women's Forum	Girls Leadership	Prosperity Now
National Crittenton	Golden State Opportunity	Reboot Representation
National Partnership for Women and Families	Grantmakers for Girls of Color	Service Employees International Union
SEIU	I Am Why	Tewa Women United
Time's Up Now	Idaho Coalition Against Sexual & Domestic Violence	The Greenlining Institute
Asset Funders Network	Invest in Women Entrepreneurs Initiative	The Justice for Girls Coalition of WA State
Bulbul Gupta, President & CEO, Pacific Community Ventures	Justice in Aging	The Women's Fund of Central Ohio
Caring Across Generations	Low Income Investment Fund	United State of Women
Center for Law and Social Policy (CLASP)	MANA, A National Latina Organization	Vermont Network Against Domestic and Sexual Violence
Ceres Policy Research	Movement Advancement Project	Visionary Justice StoryLab
Chicago Foundation for Women	Ms. Foundation for Women	Western Center on Law & Poverty
Coalition for Juvenile Justice	National Alliance to End Sexual Violence	Women Employed
COFI	National CAPACD- National Coalition for Asian Pacific American Community Development	Women's Fund of Rhode Island
Crittenton Services for Children and Families	National Council of Jewish Women	Women's Fund of the Greater Cincinnati Foundation
Delores Barr Weaver Policy Center	National Employment Law Project	Youth Collaboratory
Equal Rights Advocates	NETWORK Lobby for Catholic Social Justice	YWCA USA
Equality Now	OASIS, Oregon Abuse Advocates and Survivors in Service	

**Endorsement is an indication of solidarity within our movement and a recognition of the urgency of these policies. Endorsement does not necessarily mean that organizations have expertise on or are actively working towards each priority or policy listed.*