THOUGHT LEADERSHIP

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OMB Releases New Standards for Federal Data on Race and Ethnicity

Services

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On March 29, 2024, the federal government released a new "Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity." This update aims to better reflect the growing diversity of the people of the United States and improve the quality and usefulness of federal race and ethnicity data.

The initial proposal was published for Notice and Comment in January 2023 and received more than 20,000 comments in addition to listening sessions and virtual townhalls hosted by the Interagency Technical Working Group on Race and Ethnicity Standards (Working Group).

Background

The Statistical Policy Directive No. 15 (SPD 15) was implemented nearly 50 years ago in 1977. It has only been revised once: in 1997. Almost 25 years later, the Office of Management and Budget (OMB) and the Working Group sought to revise the way race and ethnicity data is collected. The goal of SPD 15 is to ensure comparable datasets of race and ethnicity across all federal agencies that collect such information. Ideally, consistent data can be based on rigorous evidence, standards, and procedures.

SPD 15 does not require federal agencies to collect information on race and ethnicity. However, all federal agencies that conduct information collections (e.g., censuses, surveys, federal student loan applications, and administrative forms) must adhere to SPD 15 when collecting race and ethnicity information.

Key takeaways

New standards include:

Combining race and ethnicity into one question. In the old standard, race and ethnicity were two separate questions, often confusing respondents and leading to an over-indexing of "Other" as a response. The new standard combines the question of race and ethnicity and encourages respondents to select all categories that apply. The change should improve the collection of race data particularly for the Hispanic or Latino population by reducing the number of responses that leave the race question blank when formatting race and ethnicity as two separate questions.

Adding a category of Middle Eastern or North African (MENA). Previously, MENA were part of the definition under the "white" reporting category. Research suggests some individuals identifying as MENA view themselves as distinct from white.

Requiring more detailed collection by federal agencies as a default. The new default requires collecting details beyond the new minimum reporting categories, and to include expansion into subcategories. According to the new standards, if "agencies determine the additional burden would outweigh the potential benefits of collecting detailed data, they may seek approval" to use the minimum reporting categories.

An example of the new default:

What is your race and/or ethnicity?
Select all that apply and enter additional details in the spaces below.

☐ **American Indian or Alaska Native** – _Enter, for example, Navajo Nation, Blackfeet Tribe of the Blackfeet Indian Reservation of Montana, Native Village of Barrow Inupiat Traditional Government, Nome Eskimo Community, Aztec, Maya, etc._

[   ]

☐ **Asian** – _Provide details below._
  ☐ Chinese   ☐ Asian Indian   ☐ Filipino
  ☐ Vietnamese   ☐ Korean   ☐ Japanese
  Enter, for example, Pakistani, Hmong, Afghan, etc.

[   ]

☐ **Black or African American** – _Provide details below._
  ☐ African American   ☐ Jamaican   ☐ Haitian
  ☐ Nigerian   ☐ Ethiopian   ☐ Somali
  Enter, for example, Trinidadian and Tobagonian, Ghanaian, Congolese, etc.

[   ]

☐ **Hispanic or Latino** – _Provide details below._
  ☐ Mexican   ☐ Puerto Rican   ☐ Salvadoran
  ☐ Cuban   ☐ Dominican   ☐ Guatemalan
  Enter, for example, Colombian, Honduran, Spaniard, etc.

[   ]

☐ **Middle Eastern or North African** – _Provide details below._
  ☐ Lebanese   ☐ Iranian   ☐ Egyptian
  ☐ Syrian   ☐ Iraqi   ☐ Israeli
  Enter, for example, Moroccan, Yemeni, Kurdish, etc.

[   ]

☐ **Native Hawaiian or Pacific Islander** – _Provide details below._
  ☐ Native Hawaiian   ☐ Samoan   ☐ Chamorro
  ☐ Tongan   ☐ Fijian   ☐ Marshallese
  Enter, for example, Chuukese, Palauan, Tahitian, etc.

[   ]

☐ **White** – _Provide details below._
  ☐ English   ☐ German   ☐ Irish
  ☐ Italian   ☐ Polish   ☐ Scottish
  Enter, for example, French, Swedish, Norwegian, etc.

[   ]

An example of the new minimum categories:

What is your race and/or ethnicity?
Select all that apply.

☐ **American Indian or Alaska Native**
For example, Navajo Nation, Blackfeet Tribe of the Blackfeet Indian Reservation of Montana, Native Village of Barrow Inupiat Traditional Government, Nome Eskimo Community, Aztec, Maya, etc.

☐ **Asian**
For example, Chinese, Asian Indian, Filipino, Vietnamese, Korean, Japanese, etc.

☐ **Black or African American**
For example, African American, Jamaican, Haitian, Nigerian, Ethiopian, Somali, etc.

☐ **Hispanic or Latino**
For example, Mexican, Puerto Rican, Salvadoran, Cuban, Dominican, Guatemalan, etc.

☐ **Middle Eastern or North African**
For example, Lebanese, Iranian, Egyptian, Syrian, Iraqi, Israeli, etc.

☐ **Native Hawaiian or Pacific Islander**
For example, Native Hawaiian, Samoan, Chamorro, Tongan, Fijian, Marshallese, etc.

☐ **White**
For example, English, German, Irish, Italian, Polish, Scottish, etc.

Refining and updating several existing category descriptions. These include replacing the terms "Far East" with "Central or East Asia" and "Indian Subcontinent" with "South Asia" in the Asian definition. The new standard also removes "Negro" from the Black or African American definition.

The new standards are effective as of today. Federal agencies are required to make action plans regarding these changes within 12-18 months from today's publication. The deadline for compliance is five years from today.

Effect on employers

The Equal Employment Opportunity Commission (EEOC) collects workforce data from private employers with more than 100 employees. This data includes race and ethnicity data that falls within SPD 15. Employers should familiarize themselves with the current minimum reporting categories and be prepared to answer nuanced questions from employees.

Employers who work with federal contractors participating in affirmative action programs rely on self-reported race and ethnicity data via the Office of Federal Contract Compliance Programs (OFCCP). Employers should continue to monitor developments with respect to these and other regulatory developments.

All employers should be aware of the new standards and categories and how they will impact the ways employees self-identify.

Contact us

If you have questions about the new standards for collecting federal data on race and ethnicity or would like assistance to ensure compliance and to plan for the changes ahead, contact Jenna Brofsky, Delia Berrigan, or your Husch Blackwell attorney.