



AMERICAN ATHEISTS

June 1, 2020

Lynn Johnson
Assistant Secretary
Administration for Children and Families
Office of Planning, Research, and Evaluation
330 C Street SW
Washington, DC 20201
Attn: OPRE Reports Clearance Officer
Via Email to OPREinfocollection@acf.hhs.gov

Re: Comments Regarding Proposed Information Collection Activity; Youth Empowerment Information, Data Collection, and Exploration on Avoidance of Sex (IDEAS) (New Collection) (Document No. 2020-06867)

Dear Asst. Secretary Johnson,

American Atheists writes in response to the request for public comments regarding the Notice entitled “Proposed Information Collection Activity; Youth Empowerment Information, Data Collection, and Exploration on Avoidance of Sex (IDEAS) (New Collection)” published on April 2, 2020.¹ To prepare for this comment, American Atheists requested and received four relevant data collection instruments from the Administration for Children and Families (ACF).² ACF’s stated goals are to increase the efficiency and general effectiveness of their programs to improve the social and economic well-being of children and families. ACF claims that the proposal will collect and analyze responses from parents, teens, and young adults in order to inform sex education approaches, specifically sexual risk avoidance (SRA), while inflicting a minimum appropriate burden upon respondents. We disagree. Not only is ACF’s burden estimation unrealistically low, but that even if it were not, the collection activity itself is inappropriate and unnecessary. Therefore, we urge you to withdraw the proposed information collection.

American Atheists is a national civil rights organization that works to achieve religious equality for all Americans by protecting what Thomas Jefferson called the “wall of separation” between government and religion created by the First Amendment. We strive to create an environment where atheism and atheists are accepted as members of our nation’s communities and where casual bigotry against our community is seen as abhorrent and unacceptable. We promote

¹ Administration for Children and Families, Proposed Information Collection Activity; Youth Empowerment Information, Data Collection Exploration on Avoidance of Sex (IDEAS) (New Collection). 85 Fed. Reg. 18575, Document No. 2020-06867, proposed Apr. 7, 2020 [“proposed collection”]. Available at: <https://www.govinfo.gov/content/pkg/FR-2020-04-02/pdf/2020-06867.pdf>.

² Instrument 1, Parent Survey; Instrument 2, Youth Survey Part 1; Instrument 3, Youth Survey Part 2; Instrument 4, Young Adult Survey.

understanding of atheists through education, outreach, and community-building and work to end the stigma associated with being an atheist in America. As advocates for the health, safety, and well-being of all Americans, American Atheists supports the fair and scientifically accurate education of young people, free from religious misinformation and coercion.

The proposed data collection is biased, unnecessary, and burdensome.

ACF claims that the proposed collection activity will collect and analyze information from teens, young adults, and parents in order to develop and improve sex education. However, this data collection is unnecessary because data collection mechanisms already exist for the federal government to collect information related to teen and young adult sexual activity and sex education. For example, the Youth Risk Behavior Survey (YRBS) is a biennial, geographically representative survey that includes measures related to sexual activity, contraception usage, and other related issues.³ Moreover, detailed information about the effectiveness of sex education programs is already collected through the Teen Pregnancy Prevention Program (TPPP).⁴ Finally, ACF just recently updated a similar program that collects information on sex education relating to the Personal Responsibility Education Program (PREP).⁵ These existing data collections have a track record of proven effectiveness, they allow for longitudinal assessments, and they are efficient in that they are already implemented among program grantees, states, and municipalities. Conversely, the proposed collection is wasteful and unnecessary, seeking to create an entirely new survey without clear need or purpose.

Moreover, ACF has obfuscated the significant public burden anticipated by this proposal. ACF estimates a total burden of 1,373 hours for this proposal, but it hides that fact by artificially spreading out the proposal over three years, to reach an annual burden of 458 hours. However, there is nothing in the proposal or survey instruments that requires that this proposal requires three years – the data collection could easily be done concurrently. Moreover, because this proposed collection will be administered by web survey, is possible (and even likely) that a larger number of individuals will participate in this collection than anticipated. Finally, the second youth survey clearly anticipates that respondents may already have taken the first survey, indicating that the surveys may be taken one after another. Because there is no justification for assessing this survey over three years, ACF should provide a more realistic assessment for one year and also describe what steps it will take to limit the number of respondents to those estimated in the proposed collection.

³ Centers for Disease Control and Prevention. 1991-2019 Youth Risk Behavior Survey Questionnaire Content. Available at: www.cdc.gov/yrbs.

⁴ Office of Adolescent Health, The Teen Pregnancy Prevention Program: Performance in 2017-2018 (Year 3) (Performance Measures Snapshot 2019).

⁵ Administration for Children and Families, Submission for OMB Review; Personal Responsibility Education Program (PREP) Performance Measures and Adulthood Preparation Subjects (PMAPS) Studies-Data Collection Related to the Performance Measures Study-Revision (OMB #0970-0497), 85 Fed. Reg. 18575, Document No. 2020-09189, proposed Apr. 30, 2020. Available at: <https://www.federalregister.gov/documents/2020/04/30/2020-09189/submission-for-omb-review-personal-responsibility-education-program-prep-performance-measures-and>.

In addition, the average burden per response is severely underestimated for the proposed survey instruments. The shortest of the instruments is 18 pages of dense questions, aimed at 14-18 year olds. The longer instruments range between 35, 38, and 44 pages, and each survey contains complex multi-part questions, some with 30 or more subparts. The questions are on sensitive matters with which the average 14-year old may lack awareness or experience. Therefore, to estimate that an average 14-year old can complete this 18-page survey in 20 minutes is ridiculous, and it becomes even more so for the instruments that are twice as long or longer. How can ACF realistically estimate that a 35- or 38-page survey will require the same amount of time as an 18-page survey to complete? Clearly, the estimated burden for this proposal is in need of significant recalculation.

Even setting aside the issue of burden, the proposed survey instruments are inappropriate because they are clearly biased to support SRA programs. For example, the proposed collection instruments omit several important subjects related to sex education, the omissions of which are among the key hallmarks SRA programs.

For instance, despite the fact that the collection instruments do passingly acknowledge the existence of LGBTQ individuals, they do not actually seek any information related to LGBTQ youth or LGBTQ sex education concerns, and frame sex solely from a heterosexual, cisgender perspective.⁶ In a survey designed to improve sexual education, these questions ignore and erase the sexual activity and sexual health concerns of LGBTQ young people. Additionally, none of the proposed instruments make any inquiries related to the subject of abortion, to education about abortion, or to emergency contraceptive methods such as the morning-after pill. Further, while the proposed collection instruments do ask whether teen and young adult respondents received instruction regarding birth control methods, the instruments do not ask for any information regarding the effectiveness or thoroughness of that instruction, and they actually suggest to respondents that instruction regarding long-term birth control methods might “make[] it more likely for teens to have sex.”⁷ The omission of questions related to select sex education topics and the suggestive phrasing of questions related to topics avoided by SRA programs are scientifically unsound and bias the collection instruments and their potential results towards SRA programs.

The proposed collection instruments are also biased in support opt-in provisions to school sex education programs. Several questions ask whether respondents believe that parents should decide whether or not their children participate in sex education classes, but the instruments do not ask whether respondents believe such decisions should involve opt-in or opt-out provisions.⁸ Opt-in provisions require parents to actively provide permission in order for their children to receive sex education in school, creating unnecessary hurdles for parents who wish their children to receive sex education, and consequently making it more difficult for young people to receive sex education at school. In contrast, opt-out provisions allow parents control over their child’s education by granting them the option to have their child excused from various sex

⁶ Instrument 1, Question F5; Instrument 2, Question D5; Instrument 4, Question D5.

⁷ Instrument 1, Question E17; Instrument 3, Questions F6, F7, F12; Instrument 4, Questions F6, F7, F12.

⁸ Instrument 1, Questions E13-E16; Instrument 3, Questions F11A, F11B; Instrument 4, Questions F11A, F11B.

education requirements, providing easier access to sex education programs for parents who do wish their children to participate.

In addition, the proposed collection instruments suggest a false equivalency between various methods of birth control. Specifically, the collection instruments ask respondents about their use of condoms and birth control pills, as well as other contraceptive devices, alongside far less effective methods such as withdrawal and natural family planning.⁹ The problems with withdrawal as a birth control method are numerous and well known, particularly the high chance of unintended pregnancy compared to other methods.¹⁰ Natural family planning involves tracking a woman's fertility cycle and only engaging in unprotected sexual intercourse during the woman's infertile days. Natural family planning is not widely used and is far more difficult and unreliable than most other methods of birth control, due to the difficulty of accurately tracking a woman's infertile days, especially for women with irregular cycles.¹¹ The conflation of such ineffective and fringe birth control methods with more effective and scientifically supported methods creates a disturbing false equivalency in a survey designed to improve sexual education.

Finally, the proposed collection instruments are highly flawed in their methodology for achieving their stated purpose. ACF states that one major goal of the proposed collection activity is to "identify messages and themes that are most likely to resonate with youth." However, the proposed collection instruments do not ask about what messages and themes would resonate with teen and young adult respondents. Rather, the instruments inquire as to some opinions held by parents, teens, and young adult respondents regarding some of the messages and themes that ACF unilaterally developed.

The heavy focus on religious and political beliefs in the proposed data collection is inappropriate and has no place in sex education.

The proposed collection makes unprecedented and inappropriate inquiries into the religious lives and values of respondents. The instruments question respondents' religious beliefs, how religiously conservative respondents consider themselves to be, how regularly respondents attend religious services, and how important respondents consider religion to be in daily life.¹² Other questions delve into similarly irrelevant but sensitive topics, such as political beliefs.¹³ Religious observance and political beliefs are topics unrelated to sex education policies, having nothing to do with the stated goal of increasing the efficiency and general effectiveness of sex education programs. Other mechanisms that collect information about youth health and sex education, such as the aforementioned YRBS, TPPP, and PREP data collections, do not include these extraneous questions. And for good reason – we are concerned that asking this type of

⁹ Instrument 3, Questions G11, G18; Instrument 4, Questions G11, G18.

¹⁰ John K. Amory, "Male Contraception," *Fertility and Sterility* vol. 106, issue 6 (Nov. 2016) pp. 1303-09.

¹¹ Kaiser Family Foundation, *Natural Family Planning as a Means of Preventing Pregnancy*, Women's Health Policy (2018), <https://www.kff.org/womens-health-policy/fact-sheet/natural-family-planning-as-a-means-of-preventing-pregnancy/>.

¹² Instrument 1, Questions H17-H19; Instrument 2, Questions A10-A12; Instrument 4, Questions A10-A12.

¹³ Instrument 1, Question H23.

intensely personal questions may result in a higher rate of nonresponse bias, resulting in low quality data.¹⁴ ACF should explain why it seeks to include these irrelevant questions, and even if OMB ultimately allows ACF to use these types of questions, it should seek to understand how the agency will evaluate and counter nonresponse bias.

Moreover, Congress has shown a general unwillingness to allow federal surveys to probe religious beliefs. In 1976, Congress clarified that “no person shall be compelled to disclose information relative to his religious beliefs or to membership in a religious body” on the U.S. Census.¹⁵ Even today, only a very limited number of federal collection activities inquire as to religious beliefs.¹⁶

In addition to being an unusual divergence from the subject matter of the proposed collection activity, if ACF intends to leverage the data from these questions to allocate funding for religious SRA programs, then it risks violating First Amendment principles of separation of government and religion. While ACF may fund sex education programs, it may not do so in a way that is religiously coercive, even if this biased data collection provides “evidence” that some percentage of the population desires religiously framed programs. The Supreme Court has made clear that government “institutions must not press religious observances upon their citizens.”¹⁷ For instance, in *Kitzmiller v Dover Area School District*, a school district policy of teaching “intelligent design” as an alternative to the theory of evolution was enjoined as an impermissible endorsement of religious belief by the school district because intelligent design “cannot uncouple itself from its . . . religious antecedents.”¹⁸ Were ACF to fund sex education programs that utilize SRA programs developed based on a particular religious creed or creeds as a result of the proposed collection instruments, then it would risk having those programs struck down as unconstitutional efforts to impose religious viewpoints upon students.

Sexual risk avoidance (SRA) programs are wasteful and harmful. Data collection in support thereof is inherently beyond the proper performance of functions of ACF.

SRA programs purport to educate young people to voluntarily refrain from non-marital sexual activity, including strategies to reduce teenage pregnancy and improve the well-being of young people. SRA programs, while under a different label, are abstinence-only-until-marriage programs, and are defined by Congress as programs that “exclusively” teach “voluntary refraining from non-marital sexual activity.”¹⁹ These programs are a failed approach that shames and stigmatizes young people, withholds critical information about sexual and reproductive

¹⁴ See Office of Info. & Reg. Aff. Office of Mgmt. & Budget, Questions and Answers When Designing Surveys for Information Collections (2016).

¹⁵ 13 U.S.C. § 221(c).

¹⁶ See, e.g., National Survey of Family Growth. Available at: <https://www.cdc.gov/nchs/nsfg/index.htm>.

¹⁷ *Town of Greece v. Galloway*, 572 U.S. 565, 586-87 (2014) (citing *Van Orden v. Perry*, 545 U.S. 677, 683 (2005) (plurality opinion)).

¹⁸ *Kitzmiller v. Dover Area Sch. Dist.*, 400 F. Supp. 2 707, 765-66 (M.D. Pa. 2005).

¹⁹ Consolidated Appropriations Act of 2016, Pub. L. 117-113, 129 Stat. 2617.

health, and are ineffective at the stated goal of delaying sexual initiation for young people.²⁰ In fact, in some cases, there has been a documented negative impact on pregnancy and birth rates as a result of SRA programs.²¹ For instance, Mississippi, which requires its public schools to adopt either “abstinence-only” or “abstinence-plus” programs,²² had the third-highest reported teen birth rate in 2016.²³ Moreover, Arizona, which also focuses on SRA programs, had the seventeenth-highest teen birth rate in 2016, as well as the fourth-highest rate of reported cases of primary and secondary syphilis among young people ages 15-19 in 2016.²⁴ It is estimated that the US government has wasted over \$2 billion on these ineffective, harmful programs over the past 3 decades.²⁵ SRA programs are inappropriate to fulfill the ACF’s goals, and the proposed collection effort is not necessary for the proper performance of ACF functions.

Further, SRA programs disproportionately harm LGBTQ youth by omitting relevant information on contraception, sexuality, and gender identity in favor of strict promotion of an “abstinence-only” approach. Again, while we strongly recommend a full withdrawal of this collection activity, if the Administration does move forward, these data collection instruments should use a comprehensive definition of sex that covers the full range of sexual activities in ways that are also applicable to and understandable by LGBTQ students.

Rather than continue to pursue ineffective and harmful SRA programs, we encourage the ACF to instead support comprehensive sexuality education (CSE) in schools, in alignment with the majority of Americans who support these programs²⁶ and the Centers for Disease Control and Prevention (CDC). CSE addresses the physical, mental, emotional, and social dimensions of human sexuality for all young people. CSE is also science-based, culturally appropriate, and includes information related to a range of topics including human development, healthy

²⁰ John S. Santelli, “Abstinence-Only-Until-Marriage: An Updated Review of U.S. Policies and Programs and Their Impact,” *Journal of Adolescent Health* vol. 61, no. 3 (Sept. 2017) pp. 273-280; D. Kirby, “The impact of abstinence and comprehensive sex and STD/HIV education programs on adolescent sexual behavior,” *Sexual Research and Social Policy* vol. 5, no. 3 (2008) pp. 18-27.

²¹ HKFF. Fact Sheet. Abstinence Education Programs: Definition, Funding, and Impact on Teen Sexual Behavior. (June. 2018). Available at: <http://files.kff.org/attachment/Fact-Sheet-Abstinence-Education-Programs-Definition-Funding-and-Impact-on-Teen-Sexual-Behavior>.

²² Miss. Code. Ann. § 3-13-171.

²³ J.A. Martin, et al., “Births: Final data for 2016,” *National Vital Statistics Reports* vol. 67, no. 1. P.23 (Hyattsville, MD: 2018). Available at: https://www.cdc.gov/nchs/data/nvsr/nvsr67/nvsr67_01.pdf.

²⁴ “Teen Birth Rate Comparison, 2016 Among Girls Age 15-19,” *Power to Decide*. Available at: <https://powertodecide.org/what-wedo/information/national-state-data/teen-birth-rate>; NCHHSTP Atlas, “STD Surveillance Data” (Atlanta, GA: Centers for Disease Control and Prevention). Available at: <http://gis.cdc.gov/GRASP/NCHHSTPAtlas/main.html>.

²⁵ J. Boyer. Guttmacher Policy Review. “New Name, Same Harm: Rebranding of Federal Abstinence-Only Programs.” (February 2018). Available at: <https://www.guttmacher.org/gpr/2018/02/new-name-same-harm-rebranding-federal-abstinence-only-programs>.

²⁶ A 2018 survey sponsored by Planned Parenthood concluded that 89% of Americans think it is important to have sex education in middle schools and 98% think these programs are essential in high schools. Planned Parenthood. “Sex Education: A National Survey on Support Among Likely Voters.” (Feb. 2018) Available at: https://www.plannedparenthood.org/uploads/filer_public/7a/ac/7aacf0ad-fd1c-4dcc-b65f-47e3c3754e0d/sex_education_-_a_national_survey_on_support_among_likely_voters_logo.pdf.

relationships, personal safety, pregnancy and reproduction, and sexual behavior, in addition to abstinence and refraining from sexual activity.

The CDC has identified 19 critical sexual education topics that should be taught at schools, including but not limited to how HIV and other STIs are transmitted and how students can reduce their risk, pregnancy, the benefits of being sexually abstinent, the use of condoms, and negotiation/decision-making skills. Statistics show that only 38% of high schools in the country cover all of these topics, while in grades 6, 7, and 8, the number of schools teaching these critical education topics drops to 14%.²⁷

Conclusion

The proposed collection activity is not only uniquely burdensome, it is also unnecessary and inappropriate to foster health and well-being among American youth. ACF proposes to waste time and resources intrusively inquiring into respondents' religious beliefs in order to generate biased support for SRA programs that have long been proven ineffective. We urge you to withdraw this proposed collection activity. Moreover, we urge ACF to stop spending taxpayer money on failed programs that hurt young people. If you should have any questions regarding American Atheists' comments on the Proposed Information Collection, please contact me at 908.276.7300 x309 or by email at agill@atheists.org.

Very truly yours,



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²⁷ N.D. Brener, et al., School Health Profiles 2016: Characteristics of Health Programs Among Secondary Schools (Atlanta: Centers for Disease Control and Prevention, 2017). P. 17. Available at: https://www.cdc.gov/healthyyouth/data/profiles/pdf/2016/2016_Profiles_Report.pdf#page=25.