

April 6, 2026

Office for Civil Rights
U.S. Department of Health and Human Services
200 Independence Avenue SW, Suite 515F
Washington, DC 20201

Submitted electronically

Re: Civil Rights and Conscience Complaint and Health Information Privacy, Security, & Breach Notification Complaint (OMB Control Number 0945-0002)

The 53 undersigned organizations write to comment on the revisions the Office for Civil Rights (OCR) at the Department of Health and Human Services (HHS) is proposing to the Civil Rights and Conscience Complaint form. We are strongly opposed to several of these changes, including eliminating references to gender identity and sexual orientation, removing Limited English Proficiency as a standalone basis, and deleting “Middle Eastern and North African” and “Other” in demographic questions. OCR has failed to acknowledge the impact of these proposed changes, provide adequate justifications, and afford the public a meaningful opportunity to comment. We urge it to withdraw its proposal.

I. Sex Discrimination

OCR proposes multiple changes related to sex discrimination, particularly discrimination based on gender identity and sexual orientation. It seeks to remove gender identity and sexual orientation from the list of protected categories that can be selected as bases for the complaint. It also proposes to delete a number of fields related to gender, including the “preferred pronoun” field, the option to specify one’s sex (male, female, or other), and the gender-neutral honorific “Mx.” These changes are harmful, unwarranted, and unjustified.

a. Harmful impacts of the proposed changes

The proposed changes would impose worsened barriers for individuals submitting complaints of sex discrimination, undermine their access to a fair and effective process, and compromise oversight and transparency.

LGBTQIA+ (lesbian, gay, bisexual, transgender, queer, intersex, and asexual) people already face barriers in the OCR complaint process. Many of these barriers are long-standing: For example, the often lengthy and complex process can be difficult to navigate without access to legal support and other resources, while a fluctuating legal landscape has left many LGBTQIA+ people uncertain about their rights under federal nondiscrimination laws. In recent months, these hardships have been significantly exacerbated, particularly for transgender people. HHS and the federal administration overall have continuously escalated their attempts to limit the rights of transgender people, sowing fear and confusion. Many transgender people have been deterred from submitting complaints due to well-founded concerns that OCR would not meaningfully resolve their complaints or that their private information would be misused. Removing sexual orientation and gender identity from the list of protected categories would compound these problems: It would amplify both the confusion about the rights of LGBTQIA+ individuals under

the statutes OCR enforces and the concerns that OCR would not give adequate consideration to their complaints.

Other proposed changes, such as removing options for individuals to specify their pronouns and indicate their sex when it is the basis for the complaint, can compromise access to an effective complaint process. OCR's Supporting Statement asserts that it is removing the option to indicate one's sex as "other"—a needless attempt to disadvantage people whose gender is not male or female. Contrary to the claim in the Supporting Statement, the proposed change reflected in the form is even more expansive: It deletes the option to specify sex at all, whether "male," "female," or "other." In fact, there are no fields in the revised form where complainants can indicate their sex or the manner in which they should be addressed, leaving OCR staff to make guesses based on unreliable indications such as the gender they might associate with the complainant's name. While these changes appear designed to codify anti-transgender bias, the potential mistakes, confusion, and even harassment that may result would impact complainants regardless of whether they are transgender. Removing the option to specify sex also makes for an inefficient resolution process: The sex that forms the basis for a sex discrimination complaint is materially relevant, and removing this field can introduce inefficiencies and errors into OCR's investigations.

The proposed changes also compromise OCR's ability to track complaints alleging discrimination based on sexual orientation, gender identity, and sex overall. Accurate data on the complaints that OCR receives, investigates, and resolves is a prerequisite both for the agency's own practice and for effective oversight by stakeholders such as members of Congress, internal auditors and inspectors, and members of the public. The revised forms, however, would eliminate fields that OCR could use to efficiently identify complaints of discrimination based on sexual orientation and gender identity and track the sex associated with sex discrimination complaints.

b. Failure to provide justification

OCR fails to provide a reasoned justification—or in some cases *any* justification—for its proposed revisions. OCR's Supporting Statement cites an August 2024 order in *Texas v. Becerra*¹ regarding rulemaking implementing Section 1557 of the Affordable Care Act, and it suggests that the order imposed a nationwide stay on enforcing the prohibition on sex discrimination with respect to "sex characteristics, including intersex traits; pregnancy or related conditions; sexual orientation; gender identity; and sex stereotypes." This claim, however, dramatically misrepresents the court's decision. In fact, the order—issued in response to the federal government's own motion for reconsideration—specifically limited the scope of the stay and made clear that it did not require the wholesale revision of the definition of sex discrimination or the removal of any protected basis under Section 1557.² The court did not address Section 1557's application to discrimination on the basis of sex characteristics, pregnancy or related conditions, sexual orientation, and sex stereotypes,³ and so it is not relevant to OCR's proposal to remove

¹ No. 6:24-CV-211-JDK, 2024 WL 4490621 (E.D. Tex. Aug. 30, 2024).

² *See id.* at *2.

³ *See id.* ("For the reasons explained above, a § 705 stay should apply nationwide *but only as to the portions of the Final Rule challenged here*. Accordingly, the Court modifies its previous order (Docket No. 18) and ORDERS that the effective date of the May 6, 2024 Final Rule, Nondiscrimination in Health Programs and Activities, 89 Fed. Reg. 37,522 is STAYED nationwide as to only the following sections: 42 C.F.R. §§ 438.3(d)(4), 438.206(c)(2), 440.262,

references to sexual orientation. Moreover, the agency fails to engage with the numerous federal court decisions holding that Section 1557’s prohibition of discrimination on the basis of sex extends to discrimination on the basis of gender identity.⁴ The agency’s reliance on *Texas v. Becerra* to justify its proposed revisions cherry-picks case law, overstates the scope of that case law, and is wholly unfounded.

Nor is this agency action warranted by Executive Order 14168, a discriminatory order that is the basis for multiple legal challenges.⁵ The executive order does not supply independent authority to depart from the governing statutes: It is steeped in overt animus and baseless anti-transgender ideology, and agencies’ attempts to enforce its prejudice would ultimately fail to pass constitutional muster.⁶ Further, this executive order does not and cannot provide OCR with any new authority to alter the Civil Rights and Conscience Complaint form in a manner inconsistent with the underlying statutes. Beyond a mere citation, OCR provides no explanation for why the executive order requires the proposed changes, yet a “decision supported by no reasoning whatsoever in the record cannot be saved merely because it involves an Executive Order.”⁷

II. Limited English Proficiency

Without explanation or justification, OCR proposes to remove “Limited English Proficiency” from the list of protected categories available for selection on the discrimination complaint form. In its place, OCR includes “languages spoken” as a subcategory under the “National Origin” option. While protections against language-based discrimination derive from Title VI of the Civil Rights Act of 1964⁸ and Section 1557, OCR’s proposed revision undermines plain language accessibility and improperly narrows the scope of limited English proficiency (LEP) protections to spoken language alone—contrary to OCR’s own regulatory definition of this term.⁹

460.98(b)(3), 460.112(a); 45 C.F.R. §§ 92.101(a)(2) (and all references to this subsection), 92.206(b), 92.207(b)(3)-(5).”) (emphasis added).

⁴ See, e.g., *Hammons v. Univ. of Md. Med. Sys. Corp.*, 649 F. Supp. 3d 104, 115-16 (D. Md. 2023); *Scott v. St. Louis Univ. Hosp.*, 600 F. Supp. 3d 956, 965 (E.D. Mo. 2022); *Joganik v. E. Tex. Med. Ctr.*, No. 6:19-CV-517-JCB-KNM, 2021 WL 6694455, at *10 (E.D. Tex. Dec. 14, 2021).

⁵ See *Doctors for Am. v. Off. of Pers. Mgmt.*, 793 F. Supp. 3d 112 (D.D.C. 2025) (ruling actions by Office of Personnel Management and Department of Health and Human Services to implement E.O. 14168 to be arbitrary and capricious); *R.I. Latino Arts v. Nat’l Endowment for the Arts*, 800 F. Supp. 3d 351 (D.R.I. 2025) (ruling agency actions that disfavored grant applicants, consistent with EO 14168, to be arbitrary and capricious); see also *San Francisco AIDS Found. v. Trump*, Case No. 24-cv-01824 (N.D. Cal. 2025); *FreeState Just. v. EEOC*, Case No. 1:25-cv-02482 (D. Md. 2025).

⁶ See *Orr v. Trump*, 778 F. Supp. 3d 394, 415 (D. Mass. 2025), *appeal pending* (“Viewed as a whole, the language of the Executive Order is candid in its rejection of the identity of an entire group—transgender Americans—who have always existed and have long been recognized in, among other fields, law and the medical profession.”); cf. *Talbott v. United States*, 775 F. Supp. 3d 283, 322 (D.D.C. 2025) (holding that Executive Order 14183, which incorporates by reference Executive Order 14168, “is littered with animus and pretext”).

⁷ *R.I. Latino Arts*, 800 F. Supp. 3d at 373 (citing *Louisiana v. Biden*, 543 F. Supp. 3d 388, 414 (W.D. La. 2021), *vacated and remanded on other grounds*, 45 F.4th 841 (5th Cir. 2022)).

⁸ See 42 U.S.C. § 2000d.

⁹ See U.S. Dep’t of Health & Human Servs., Office for Civ. Rts., Dear Colleague Letter: Language Access Provisions of the Final Rule Implementing Section 1557 of the Affordable Care Act 2, <https://www.hhs.gov/sites/default/files/ocr-dcl-section-1557-language-access.pdf> (Dec. 5, 2024).

Individuals with LEP experience significant barriers to accessing health care in the United States, negatively impacting their quality of care and long-term health outcomes.¹⁰ Title VI and Section 1557 require covered health programs and activities to take reasonable steps to provide meaningful access to individuals with LEP. Language access is equally critical, and similarly required under Title VI, in social service programs funded by HHS—from ensuring that parents with LEP can fully participate in child welfare proceedings to enabling minors in the custody of the Office of Refugee Resettlement to communicate effectively with federal funding recipients responsible for their health and wellbeing.

The ability to file an administrative complaint with OCR is often the only practical mechanism by which individuals can address discrimination resulting from denial of language access services. Court fees can be cost-prohibitive for many individuals with LEP, and the compliance support historically provided by OCR has yielded broad remedies—including improved policies, procedures, and training—designed to ensure that covered entities provide meaningful language access on a prospective basis.¹¹

By removing “Limited English Proficiency” from the list of protected categories and subsuming it under the “National Origin” option, OCR expects the public to understand that LEP protections derive from case law and agency interpretations establishing that national origin discrimination encompasses language-based discrimination. This expectation is unreasonable and contravenes the Plain Writing Act of 2010, which requires federal agencies to write “clear Government communication that the public can understand and use.”¹² HHS has expressly committed to writing documents “in plain language to ensure [the public] can easily understand” agency communications.¹³ Furthermore, many individuals who speak a language other than English communicate in languages indigenous to the United States—including Navajo, Cherokee, Dakota, Yupik, Hawaiian, and other Native American languages protected under the Native American Languages Act of 1990.¹⁴ These individuals may not consider their language to be “foreign” or associated with a “national origin” distinct from the United States, potentially deterring them from filing complaints.

Moreover, the substitution of “language spoken” is both inadequate and legally inaccurate. First, “language spoken” fails to capture the essence of the protection—namely, an individual’s limited ability to communicate effectively in English. Second, federal protections are not only applicable to an individual’s ability to *speak* English; they also encompass an individual’s limited ability to read, write, or understand English.¹⁵ As OCR acknowledges in its Section 1557 implementing

¹⁰ Jason Espinoza et al., *How Should Clinicians Respond to Language Barriers that Exacerbate Health Inequity?*, 23 AM. MED. ASS’N J. OF ETHICS E109 (2021), <http://doi.org/10.1001/amajethics.2021.109>.

¹¹ See, e.g., HHS Office for Civil Rights, Enforcement Success Stories Involving Persons with Limited English Proficiency, <https://www.hhs.gov/civil-rights/for-providers/compliance-enforcement/examples/limited-english-proficiency/index.html> (last accessed Mar. 27, 2026).

¹² Pub. L. No. 111-274.

¹³ U.S. Dep’t of Health & Human Servs., Plain Writing and Clear Communication, <https://www.hhs.gov/open/plain-writing/index.html> (last accessed Mar. 27, 2026).

¹⁴ Pub. L. No. 101-477.

¹⁵ 42 C.F.R. § 438.10(a) (“...[E]nrollees who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English may be LEP...”); 29 C.F.R. § 38.4(hh) (“Limited English proficient (LEP)...means an individual who has a limited ability to read, speak, write, and/or understand English.

regulations, an individual with LEP “may be competent in English for certain types of communication (*e.g.*, speaking or understanding), but still be limited English proficient for other purposes (*e.g.*, reading or writing).”¹⁶

For these reasons, OCR should retain “Limited English Proficiency” as a standalone option in the list of protected categories on the complaint form. In the alternative, if OCR declines to maintain this option, it should replace “languages spoken” with “limited English proficiency” to accurately reflect the scope of protections afforded under Title VI and Section 1557.

III. Demographic Race and Ethnicity Questions

OCR’s proposed revisions to the demographic question on race, which eliminate the Middle Eastern and North African (MENA) response option and remove the ability for complainants to self-identify through an “other” category, are unjustified and directly contradict federal regulations the office is legally obligated to comply with. OCR provides no explanation or rationale for these changes, and the revisions to the race and ethnicity questions were not clearly disclosed in the Public Notice nor the Supporting Statement.

In justifying the removal of a MENA category, OCR ignores governing regulations and instead relies on a rescinded regulation. OCR’s supporting statement says it is “proposing to delete certain categories to be consistent with the Provisional Guidance for the Implementation of the 1997 Standards for Federal Data on Race and Ethnicity,” which was issued in 2001. However, the updated 2024 Statistical Policy Directive No. 15, which requires government agencies to include MENA when collecting demographic information, explicitly rescinds the provisional guidance that OCR cites. The new rules on collecting combined “race and ethnicity” categories in SPD 15 involved years of studies, input by experts and citizens, and public deliberations. As a result, OCR is obligated to follow the directive’s standards requiring the inclusion of its seven minimum combined race and ethnicity categories, which include MENA as one of the categories. Moreover, doing so would also ensure efficiency by being in line with federal data standards and following best practices to improve the accuracy and utilization of federal data. The SPD 15 also provides an opportunity for HHS to ensure compliance under Title VI of the Civil Rights Act of 1964, which prohibits any individual from being excluded from participation in, being denied the benefits of, or being subjected to discrimination under any program or activity receiving federal financial assistance on the basis of race, color, or national origin.¹⁷

Solely eliminating the MENA category would continue to perpetuate the documented lack of visibility of MENA populations in federal data and measurable disparities in health outcomes and access to care. Evidence shows the MENA community also experiences poorer health

LEP individuals may be competent in English for certain types of communication (*e.g.*, speaking or understanding), but still be LEP for other purposes (*e.g.*, reading or writing).”).

¹⁶ 45 C.F.R. § 92.4.

¹⁷ 42 U.S.C. § 2000d.

outcomes and greater barriers to quality health care than non-Hispanic white people¹⁸ as well as organizational challenges like high healthcare costs and difficulty navigating coverage. These disparities underscore the importance of collecting accurate and disaggregated data to identify inequities and ensure interventions are completed effectively. Existing federal data limitations already make it difficult to accurately capture and analyze Arab American and MENA populations. *Across Our Communities: Arab American Perspectives and Priorities*, a community-based survey, further shows that civil rights protections are both a top priority and an area of significant dissatisfaction among Arab American respondents, underscoring the need for accurate and disaggregated demographic data to support effective enforcement.¹⁹

Without the ability to accurately self-identify, individuals may be forced to select inaccurate categories or skip reporting demographic information altogether, resulting in incomplete and unreliable data. This limits OCR's ability to detect patterns of discrimination and conduct oversight, particularly for communities that already face barriers to care and reporting. These changes are inconsistent with prior federal efforts to improve and include the collection of MENA data rather than eliminate it.

These data gaps are particularly harmful in the context of health care access and equity. Survey findings from *Across Our Communities: Arab American Perspectives and Priorities* indicate that by a wide margin, the most important healthcare issue was quality and affordability of health care. This finding holds across age, gender, and household income groups.²⁰ This underscores the need for accurate, disaggregated data to ensure that health care systems and oversight mechanisms are responsive to the needs of MENA populations and capable of identifying disparities in access and outcomes.

Disparate impacts extend to health care providers, patients, and community-based organizations that serve MENA populations. Community-based organizations play a critical role in supporting individuals through the complaint process and improving the accuracy of demographic information reported to OCR. Limiting the ability to capture MENA identity undermines these efforts and reduces the quality of data available for enforcement. This could ultimately weaken OCR's enforcement by reducing the quality of information available for investigations and oversight.

¹⁸ Minal Patel et al., *A Snapshot of Social Risk Factors and Associations with Health Outcomes in a Community Sample of Middle Eastern and North African (MENA) People in the U.S.*, 24 J. IMMIGRANT & MINORITY HEALTH 376 (Apr. 2022), <https://doi.org/10.1007/s10903-021-01176-w>; Kristine J. Ajrouch & Toni C. Antonucci, *Social Relations and Health: Comparing 'Invisible' Arab Americans to Blacks and Whites*, 8 SOCIETY AND MENTAL HEALTH 84 (March 1, 2018), <https://doi.org/10.1177/2156869317718234>.

¹⁹ National Network for Arab American Communities (NNAAC), Arab Americans for Progress (AAP), & Center for Arab Narratives (CAN), *Across Our Communities: Arab American Perspectives and Priorities* (May 2025), <https://www.arabnarratives.org/across-our-communities>.

²⁰ *Id.*

As OCR acknowledges in the Supporting Statement, “over the long term, OCR’s effectiveness in reaching those populations most in need of services would be impaired by the lack of data on who does, and by implication, who does not, avail themselves of OCR’s services.” The elimination of the MENA category would directly contribute to this outcome by further obscuring the needs of an already underrepresented population. For these reasons, OCR should retain the MENA category, as well as the option to specify one’s race under “Other,” and maintain its ability to track and analyze data on underrepresented and underserved populations, including Middle Eastern and North African communities.

IV. Procedural Deficiencies

OCR has failed to afford the public the minimally required notice and opportunity to comment. The Federal Register notice for the information collection is vague, incomplete, and misleading. It merely states the proposed revisions seek to “omit questions to reduce the burden on the complainant, clarify terms, update statutory and regulatory authority, and conform to” Executive Order 14168 and the order in *Texas v. Becerra*. The notice does not include the revisions themselves: OCR has taken the highly irregular step of providing those revisions and its supporting materials only upon request.

While the Federal Register notice suggests that OCR seeks to change fields related to gender identity, it includes no indication of the numerous other changes that OCR is proposing, including the revisions to the race and ethnicity demographic questions, the shift of Limited English Proficiency from a standalone basis for discrimination, and the deletion of references to sexual orientation. Stakeholders with relevant interests had no warning that those questions would be revised and thus no reason to specially request the supplemental materials.

Even those who have access to those materials were denied a sufficient basis to comment. First, OCR’s Supporting Statement misstates the revisions being proposed and contradicts the changes reflected in the complaint form. For example, the Supporting Statement indicates that it is removing the option to specify one’s sex as “other” but maintaining the “male” and “female” answer choices, but the proposed form eliminates all options to specify sex. Several key changes are not even explicitly mentioned in the Supporting Statement. For example, the Supporting Statement provides does not include the proposed revisions to the demographic race and ethnicity questions: Those changes can only be identified through a detailed comparison between the current and proposed forms. As a result, OCR has denied the public meaningful notice of these significant changes, and it has failed to provide any rationale whatsoever to allow commenters to assess those proposals.

V. Conclusion

OCR has failed to justify key proposed revisions and meet minimal procedural obligations. Consequently, this proposal must be withdrawn. If OCR wishes to revise the complaint form, it must submit a new proposal that is consistent with underlying statutes, provides adequate rationales for all changes, and affords the public a meaningful opportunity to comment.

We request that the supporting documentation we have made available through direct links in our citations be considered as part of the formal administrative record for purposes of the

Administrative Procedure Act. For further information, please contact Ma'ayan Anafi, Senior Counsel for Health Equity and Justice at the National Women's Law Center, at manafi@nwlc.org or Paige Jones, Public Policy Associate at the National Network for Arab American Communities, at paigejones@accesscommunity.org.

Sincerely,

American Atheists
 American Civil Liberties Union
 Americans United for Separation of Church and State
 APLA Health
 Arkansas Black Gay Men's Forum
 Asian & Pacific Islander American Health Forum
 Asian Resources, Inc.
 Autistic Women & Nonbinary Network
 Ayuda
 California LGBTQ Health and Human Services Network
 California Women's Law Center
 Center for Law and Social Policy (CLASP)
 Chinese for Affirmative Action
 Clearinghouse on Women's Issues
 Disability Rights Education and Defense Fund (DREDF)
 Fair Wisconsin
 Feminist Majority Foundation
 Fenway Health
 Gender Alchemy
 Impact Fund
 interACT: Advocates for Intersex Youth
 Justice in Aging
 LatinoJustice PRLDEF
 Lawyers for Good Government
 League of United Latin American Citizens (LULAC)
 Legal Aid at Work - Gender Equity & LGBTQ Rights Project
 Legal Aid Foundation of Los Angeles
 National Asian Pacific American Women's Forum
 National Association of Social Workers
 National Education Association
 National Immigration Law Center
 National Latina Institute for Reproductive Justice
 National LGBTQ+ Bar Association
 National Network for Arab American Communities
 National Partnership for Women & Families
 National Women's Law Center
 New Disabled South

Northwest Health Law Advocates (NoHLA)
Oasis Legal Services
One Colorado
PFLAG National
Planned Parenthood Federation of America
Reproductive Freedom for All
Rocky Mountain Equality
SAGE
San Joaquin Pride Center
SPAN Parent Advocacy Network (SPAN)
The LGBTQIA+ Cancer Network
Trans Can Work
Transgender Education Network of Texas (TENT)
Wildlife for All
Young Center for Immigrant Children's Rights