



NATIONAL INDIAN EDUCATION ASSOCIATION

## **NIEA Resolution 2023 - #E004**

### **TITLE: URGING THE OFFICE OF MANAGEMENT AND BUDGET TO INCORPORATE THE OFFICE OF HAWAIIAN AFFAIRS' RESPONSES AND RECOMMENDATIONS TO THE FINAL UPDATES TO THE OMB RACE AND ETHNICITY STATISTICAL STANDARDS**

**WHEREAS**, the National Indian Education Association (NIEA) was established in 1970 for the purpose of advocating, planning, and promoting the unique and special educational needs of American Indians, Alaska Natives, and Native Hawaiians; and

**WHEREAS**, NIEA as the largest national Native organization of American Indian, Alaska Native, and Native Hawaiian educators, administrators, parents, and students in the United States, provides a forum to discuss and act upon issues affecting the education of Indian and Native people; and

**WHEREAS**, through its unique relationship with Native nations and tribes, the federal government has established programs and resources to meet the educational needs of American Indians, Alaska Natives, and Native Hawaiians, residing on and off their reserved or non-reserved homelands; and

**WHEREAS**, the Office of Hawaiian Affairs (OHA) has submitted comments regarding the initial proposals for updating the federal Office of Management and Budget (OMB) Race and Ethnicity Standards published on January 27, 2023; and

**WHEREAS**, OHA's comments specifically address the crucial matter of Native Hawaiian and Pacific Islander data, recognizing the high diversity score in Hawaii, making it imperative to gather accurate data to effectively address equity in education, health, housing, and economic stability; and

**WHEREAS**, the collection and utilization of accurate data are essential for identifying disparities and implementing targeted interventions that address the unique needs and challenges faced by Native Hawaiian, Pacific Islander, and other underrepresented communities;

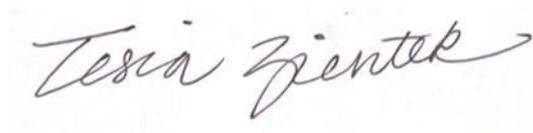
**THEREFORE BE IT RESOLVED**, that the National Indian Education Association urges the Office of Management and Budget (OMB) to incorporate the Office of Hawaiian Affairs (OHA) responses and recommendations to the final updates to the OMB Race and Ethnicity Statistical Standards; and

**BE IT FURTHER RESOLVED,** that the NIEA recognizes and acknowledges Hawai'i's status as the state with the highest diversity score in the Nation, highlighting the critical importance of gathering accurate data to fulfill the federal Trust Responsibility towards equity in education, health, and housing for Native Hawaiian funded programs;

**BE IT FINALLY RESOLVED,** that this resolution shall be the policy of NIEA until it is withdrawn or modified by subsequent resolution.

CERTIFICATION

I do hereby certify that the following resolution was duly considered and passed by the National Indian Education Association on October 21, 2023 at which a quorum of the membership was present.

A handwritten signature in cursive script that reads "Tesia Zientek". The signature is written in black ink on a light-colored background.

Tesia Zientek  
President



**STATE OF HAWAII**  
**OFFICE OF HAWAIIAN AFFAIRS**  
560 N. NIMITZ HWY., SUITE 200  
HONOLULU, HAWAII 96817

February 27, 2023

Office of the Chief Statistician Office of Management and Budget 9<sup>th</sup> Floor, 1800 G. St. NW  
Washington, D.C. 20503

Response to: Office of Management and Budget, Initial Proposals for Updating OMB's Race and  
Ethnicity Statistical Standards, Published Friday, January 27, 2023, Request for Comments

Via: <http://www.regulations.gov> Aloha mai,

Mahalo nui loa (thank you very much) for the opportunity to provide feedback to the Office of  
Management and Budget ("OMB") as it considers how to improve the way that data on race and  
ethnicity is collected by the Federal government.

### **OHA's Role and Responsibilities**

Established by our state's Constitution,<sup>1</sup> the Office of Hawaiian Affairs ("OHA") is a semi-  
autonomous agency of the State of Hawai'i mandated to better the conditions of Native Hawaiians.  
Guided by a board of nine publicly elected trustees, all of whom are currently Native Hawaiian,  
OHA fulfills its mandate through advocacy, research, community engagement, land management,  
and the funding of community programs. Hawai'i state law recognizes OHA as the principal public  
agency in the state responsible for the performance, development, and coordination of programs  
and activities relating to Native Hawaiians.<sup>2</sup> Furthermore, state law directs OHA to advocate on  
behalf of Native Hawaiians;<sup>3</sup> to advise and inform federal officials about Native Hawaiian  
programs; and to coordinate federal activities relating to Native Hawaiians.<sup>4</sup>

<sup>1</sup> HAW. CONST., art. XII, §5 (1978). <sup>2</sup> Haw. Rev. Stat. § 10-3(3).

<sup>3</sup> Haw. Rev. Stat. § 10-3(4).

<sup>4</sup> Haw. Rev. Stat. § 10-6(a)(4).

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### **The Federal Trust Responsibility to Native Hawaiians**

Native Hawaiians are owed the same trust responsibility as any other Native American group. To  
meet this obligation, Congress has enacted programs and policies to promote education, health,

housing, and a variety of other federal programs that support Native Hawaiian self-determination. Similar to American Indians and Alaska Natives, Native Hawaiians have never relinquished our right to self-determination despite the United States' involvement in the illegal overthrow of Queen Lili'uokalani in 1893 and the dismantling of our government.

Over 150 Acts of Congress consistently and expressly acknowledge or recognize a special political and trust relationship to Native Hawaiians based on our status as the Indigenous, once-sovereign people of Hawai'i. Among these laws specifically benefitting Native Hawaiians are the Hawaiian Homes Commission Act, 1920, 42 Stat. 108 (1921); the Native Hawaiian Education Act, 20 U.S.C. § 7511; the Native Hawaiian Health Care Improvement Act, 42 U.S.C. ch. 122; and the Hawaiian Homelands Homeownership Act codified in the Native American Housing Assistance and Self Determination Act, Title VIII, 25 U.S.C. § 4221.

### **OHA Comments on the Initial Proposals for Updating OMB's Race and Ethnicity Statistical Standards, including Major Themes from Initial Public Listening Sessions**

Given its kuleana (responsibilities), especially those regarding assessment of policies and practices, the OHA is pleased to review and comment on the OMB Federal Register Notice (FRN) published January 27, 2023, titled Initial Proposals for Updating OMB's Race and Ethnicity Statistical Standards.

The OHA commends the OMB for undertaking this critical review and update to the standards. As indicated in the notice, the shifts in the demographic of the United States have been substantial with a growing racial and ethnic diversity including an increasing number who identify as multiracial. Hawai'i has the highest diversity score in the nation, so we know the importance of data to address equity in education, health, housing, and economic stability. Before commenting on the specific OMB questions, the OHA would like to weigh in on a theme from the initial public listening sessions "Collecting and Reporting Data for the Multiracial/Ethnic Population."

Note: To aid in reviewing the OHA's comments and recommendations in this document, our responses are italicized.

*The OHA does not support the use of a "multiracial" checkbox and concurs with those who raised concern that detailed information about which specific racial and ethnic groups an individual identifies with may be lost.*

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### **OHA's Recommendations on the Initial Proposals for Updating OMB's Race and Ethnicity Statistical Standards**

3. Require the collection of detailed race and ethnicity categories by default.
  - 3a. Is the example design seen in *Figure 2* inclusive such that all individuals are represented?

*The OHA previously advocated to the OMB to revise its Standards by requiring the collection of detailed race and ethnicity data for each of the existing minimum racial categories.<sup>5</sup> Given OHA's*

*constitutional mandate to assess policies and practices impacting the Native Hawaiian people, it is vital for our work that the more detailed data collection, including the Native Hawaiian checkbox, is required. Thus, the OHA believes Figure 2, the proposed example for self-response data collection is inclusive of individuals and **strongly supports** its adoption and approval by the OMB.*

3b. The example design seen in *Figure 2* collects additional detail primarily country of origin. What other potential types of detail would create useful data or help respondents to identify themselves?

*The OHA believes that the addition of the write-in option in Figure 2 allows for enough detail for individuals to identify themselves.*

3c. Some Federal information collections are able to use open-ended write-in fields to collect detailed racial and ethnic responses, while some collections must use a residual closed-ended category (e.g., “Another Asian Group”). What are the impacts of using a closed-ended category without collecting further detail through open-ended written responses?

*While providing open-ended write-in fields for race and ethnicity data allows for increased accuracy and representation of the nation’s demography, it is recognized that current data collection systems may not have the ability to capture such detail. OHA supports the adoption of Figure 2 including open-ended write in fields and recommends all current systems need to be updated and new programming instituted to allow for the improved detailed categories and write-in fields. Federal information collections based on statute should also be reviewed to determine the extent to which any expansion can be aligned to aggregate into the necessary categories required by a statute. All statutes requiring the use of dated collection practices should be amended to ensure increased accuracy.*

<sup>5</sup> Communication to Office of the Chief Statistician, April 21, 2017.

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3d. What should agencies consider when weighing the benefits and burdens of collecting or providing more granular data than the minimum categories?

*If Figure 2 is adopted and approved as the new minimum standards, then the OHA believes agencies will collect the more granular Native Hawaiian data necessary to make data-based decisions which impact the Native Hawaiian population. The ability to process as well as report the more detailed data captured by Figure 2 will likely require additional resources, but this investment in accurate data is essential to understanding and increasing racial equity throughout the nation. The OHA recommends that agencies are required through these standards to report on the additional detailed categories at minimum, and for the write-in fields to determine whether a group needs to be aggregated over time due to sample size and/or report such data based on community requests.*

*If Figure 2 is not adopted and approved as the new minimum standards for race and ethnicity data collection, then agencies should consider the purpose for the data being collected. If data are to be collected to ensure adequate and equitable resources to those in need across our communities, to inform policy decisions, and most importantly to ensure that every US resident can achieve at minimum the necessities of food, clothing, and shelter, then the benefits to collecting granular data beyond the proposed expanded standards in Figure 3 far outweigh the burdens to collect more granular data. Cost and other resource burdens to collecting, processing, and reporting data should be re-evaluated with a perspective that federal programs and agencies may need to activate partnerships with higher education institutions or independent research institutions to alleviate these burdens.*

3e. Is it appropriate for agencies to collect detailed data even though those data may not be published or may require combining multiple years of data due to small sample sizes?

*Yes, it is appropriate for agencies to collect detailed data even though those data may not be published. While there exists laws, regulations, and guidance regarding the confidentiality and other privacy issues, that may prevent current publication of data to a general audience there may be instances of special requests by other government entities for which such data can be made available with the appropriate agreements. Additionally, technological advances may be able to provide a way to ensure protections for future publication.*

*Yes, it is appropriate to collect detailed data that may require combining multiple years of data due to small sample size. It cannot be iterated enough, that States, local governments, and communities need data to make informed decisions. Having data on some interval based on combined years is better than no data.*

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3f. What guidance should be included in SPD 15 or elsewhere to help agencies identify different collection and tabulation options for more disaggregated data than the minimum categories? Should the standards establish a preferred approach in collecting additional detail within the minimum categories, or encourage agencies to collect additional information while granting flexibility as to the kind of information and level of detail?

*Guidance in SPD 15 should include the updated definitions for the minimum categories. Provisional and/or Final Guidance on the implementation of the new standards to provide more detailed description of how to aggregate the disaggregated data into the minimum standards be made available either in the guidance or as an embedded link. If Figure 2 is adopted and approved, then these new minimum standards would be the approach at collecting additional detail. If Figure 3, is adopted and approved, then guidance should strongly encourage agencies to collect additional information beyond the minimum. Despite the requirement for Federal agencies, and those receiving federal funds, to implement the 1997 Revisions to the Collection of Race and Ethnicity standards, our agency and other community stakeholders find that the current minimum standards are not being implemented or the data are not made available. Therefore, the OHA recommends that stronger language regarding the collection and reporting of the standards as a requirement as well as enforcement actions be included in SPD 15.*

*The current guidance already allows for flexibility of States and other local governments to collect detailed data beyond the minimum. Unfortunately, many States, including several of our State Departments and/or State programs (including federally funded) have narrowly interpreted the guidance and collect only the current minimum. It is recommended that this flexibility continue to be included in the new standards guidance and perhaps more clearly displayed as a standalone statement/paragraph.*

3g. Is the current “default” structure of the recommendation appropriate? Should SPD 15 pursue a more voluntary approach to the collection of disaggregated data, as opposed to having a default of collecting such data unless certain conditions are met?

*If Figure 2 is considered the “default”, then yes, the OHA supports it as the minimum standard race and ethnicity categories. OHA supports the establishment of a consistent approach to collecting more detailed data with minimum categories. As already indicated in the FRN, this approach performed best when tested prior to the 2020 Census.*

*OHA **does not support** a more voluntary approach to collecting detailed disaggregated data, as we have seen many State Departments and/or State*

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*programs (including federally funded) will not voluntarily collect more than the minimum federal categories. The lack of detailed race data in Hawai‘i dramatically impacts our abilities to make inform policy decisions, and inequitably impacts policy decisions made regarding Native Hawaiian communities.*

3h. What techniques are recommended for collecting or providing detailed race and ethnicity data for categories with smaller population sizes within the U.S.?

*Pooling data across years for categories with smaller population sizes is the recommended technique for providing data.*

4. Update Terminology in SPD 15.

*The OHA supports the proposed change to remove “Other” from Native Hawaiian and “Other” Pacific Islander. Based on political and community discussions in 1997, the term was used to denote that while Native Hawaiians are Pacific Islanders, they have a different geographic-political relationship with the US as a State. In today’s social and political climate as well as the collaborative work between our communities in addressing COVID-19, we recognize that “Other” is increasingly viewed by our Pacific cousins to be pejorative and non- inclusive. In response to the COVID-19 pandemic and resulting impacts on the social determinants of health, the Native Hawaiian and Pacific Islander COVID- 19 Response, Recovery, and Resilience team was established. The removal of “Other” was a purposeful strategy in alignment with our shared core values as island peoples. The OHA believes that Native Hawaiian separated from Pacific Islander continues to provide acknowledgement of our distinct geographic- political relationship with the*

*US and the term “Other” is no longer relevant. Further, OHA supports the change from “Mark one or more” or “Select one or more” to “Mark all that apply.”*

4a. What term (such as “transnational”) should be used to describe people who identify with groups that cross-national borders (e.g., “Bantu”, “Hmong,” or “Roma?”)?

1. If a combined race and ethnicity question is implemented, what term should be used for respondents who select more than one category? For example, is the preferred term “multiracial,” “multiethnic,” or something else?

*The OHA does not support the use of any “multi-“ term in data tabulation or reporting, as the majority of Hawai‘i’s population fall within this category, effectively making all race and ethnicity data meaningless. As approximately 71% of the Native Hawaiian population in Hawai‘i report their race/ethnicity as Native Hawaiian in combination with one or more additional racial/ethnicity*

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*identity, reporting a single category of “multiracial” erases the existence of 219,437 native people living in Hawai‘i. (Source: U.S. Census Bureau, 2021 American Community Survey 1-Year Estimates)*

*Given the Bureau’s own research has suggested that some respondents are confused by the distinction between the terms “race,” “ethnicity,” and “origin” (FRN, p. 5883), it is recommended that a single term be socialized with the public and used in communications as appropriate. In Hawai‘i, prior to the implementation of the two-part question on the 2000 Census, local residents, State and local governments and departments, and community agencies used the term “ethnicity” when identifying their respective races or on forms requesting individuals to identify their races(s). Over the past two decades there is more distinction between race and ethnicity in government and their respective departments. This being said, the OHA would recommend the use of the term multiracial when a single aggregated category is necessary as it already has familiarity within our State, local governments and departments, and among many of our community agencies. Alternative suggestions include: “multiorigins,” “multicategories,” and “multiselections.”*

4b. As seen in Figure 2, based on the Working Group’s initial proposal, the question stem asks “What is your race or ethnicity?” Do you prefer a different question stem such as: “What is your race and/or ethnicity?”, “What is your race/ethnicity?”, “How do you identify?”, etc. If so, please explain.

*The OHA supports either “What is your race and/or ethnicity?” Or “How do you identify?” as the question stem.*

5. Guidance is necessary to implement SPD 15 revisions on Federal information collections. 5a. For data providers who collect race and ethnicity data that is then sent to a Federal

agency, are there additional guidance needs that have not been addressed in the initial proposals?

*Guidance is needed to balance providing detailed information, for example by including all possible combinations of multiple responses, and providing a single category when needed (e.g., “multi-racial”). Current guidance in the 1997 Revised OMB Standards has been inconsistently adhered to across federal and state departments and programs. Instructions regarding the tabulation and reporting of multiracial data should be laid out as a requirement in the newly revised OMB standards. Recommended decision rules regarding the roll-up of detailed race and ethnicity categories into the minimum standards is needed to help ensure consistency of data.*

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*The current 1997 OMB standards state “When aggregate data are presented, data producers shall provide the number of respondents who marked (or selected) only one category, separately for each of the five racial categories. In addition to these numbers, data producers are strongly encouraged to provide the detailed distributions, including all possible combinations, of multiple responses to the race question. If data on multiple responses are collapsed, at a minimum the total number of respondents reporting “more than one race” shall be made available.”*

*OHA recommends to include in the standards, “When aggregate data are presented, data producers shall provide the number of respondents who marked (or selected) only one category, separately for each of the detailed racial categories (“Alone”). In addition to these numbers, data producers shall provide, the total number of respondents who selected the detailed racial categories in any combination with other categories (“Alone or in Combination”). Data on multiple responses shall not be collapsed.”*

5d. How should race and ethnicity be collected when some method other than respondent self-identification is necessary (e.g., by proxy or observation)?

*The OHA suggests that observation be a last resort in terms of collecting and identifying an individual’s race and ethnicity. The following methods are suggested:*

- 1. Where possible, use of an individual’s birth certificate.*
- 2. Request information from a guardian or parent.*
- 3. To the extent that regulations do not prohibit their use, examine existing*

*records (school, screening, application for services, etc.)*

5e. What guidance should be provided for the collection and reporting of race and ethnicity data in situations where self-identification is not available?

*Recommended methods should be provided (see 5d), could be detailed and described in a final guidance document. Perhaps through examples such as watermar:  
Student race and ethnicity. Students fill out an enrollment form on which their race and ethnicity data are collected. If this field is left blank, then the following steps are suggested:*

1. *Follow-up with the parent or guardian. This should be a multi-modal strategy involving mail, electronic mail, and phone contact ensuring that every effort was made to retrieve the information.*
2. *If no response, then determine if there are existing records at the school or complex/district level with the information. If yes, complete the enrollment form.*

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*c. If there are no records available with race and ethnicity data, then observation as the last resort can be used as established by the US DOE Final Guidance on Maintaining, Collecting, and reporting Racial and Ethnic Data FRN v. 72(202), October 19, 2007. An effort should be made to identify someone who knows the child and their family to provide the race and ethnicity information, rather than using non-informed observation.*

Mahalo hou (thank you again) for the opportunity to provide feedback to the Office of Management and Budget ("OMB") as it considers how to improve the way that data on race and ethnicity is collected by the Federal government.

‘O wau iho nō me ka ‘oia‘i‘o,

Sylvia M. Hussey, Ed.D.  
Ka Pouhana, Chief Executive Officer

SMH:lwv cjh

