

Reporting Nonbinary (NBIN) for K-12 Students

New for the 2021-22 Civil Rights Data Collection (CRDC)

The Office for Civil Rights (OCR) expanded the sex category to include nonbinary for the reporting of K-12 student data. The current 2021–22 CRDC collects K-12 student data disaggregated by the sex values, male, female, and nonbinary. All CRDC local educational agency (LEA)-level and school-level items that collect K-12 student data disaggregated by sex include the new nonbinary value. Only LEAs that indicate that they collect nonbinary information from K-12 students' enrollment records are required to report student enrollment data for K-12 nonbinary students. For these and other LEAs, the reporting of other data for K-12 nonbinary students (e.g., participation in certain classes; suspensions; experience of harassment or bullying) is optional for the 2021–22 CRDC.

- Nonbinary means not exclusively male or female. Transgender students may be reported as male, female, or nonbinary.
- For the CRDC, using nonbinary as a third value for the sex category is appropriate for K-12 students whose sex is not listed as male or female in their school records.

The inclusion of a nonbinary value for the sex category allows OCR to capture data that provides a greater understanding of the experiences of K-12 nonbinary students and helps to further OCR's mission to enforce **Title IX's prohibition on discrimination on the basis of sex**, which includes discrimination based on sexual orientation and gender identity.

Reporting Nonbinary

For the 2021–22 CRDC, there are two new and required **NBIN-1: Nonbinary Student Indicator** items—one at the LEA-level and one at the school-level. These indicator items are included in the 2021–22 CRDC data submission system at the LEA-level (see Figure 1) and at the school-level (see Figure 2). Because the indicator items collect metadata, they are not included in the 2021–22 CRDC LEA Form or School Form.

NBIN-1: Nonbinary Student Indicator
All LEAs and justice facilities
Rain County (NCES LEA ID: 0199999)

Instructions:
Select a "Yes" if the LEA tracked enrollment of nonbinary students by any designation (e.g., nonbinary; X; other; or any other term).

LEGEND: ❌ Errors ⚠️ Warnings

For the Fall 2021 snapshot date did any of the schools in the LEA classify any students as nonbinary in their enrollment records?

| | Yes/No |
|-----------------------------|----------------------------------|
| Please select "Yes" or "No" | <input type="button" value="v"/> |

Figure 1. LEA-level NBIN-1: Nonbinary Student Indicator

NBIN-1: Nonbinary Student Indicator
All schools and justice facilities, preschool-grade 12, UG
Big Bang HS (NCES School ID: 019999912300)

Instructions:
Select a "Yes" if the school tracked enrollment of nonbinary students by any designation (e.g., nonbinary; X; other; or any other term).

LEGEND: ❌ Errors ⚠️ Warnings

For the Fall 2021 snapshot date did the school classify any students as nonbinary in its enrollment records?

| | Yes/No |
|-----------------------------|----------------------------------|
| Please select "Yes" or "No" | <input type="button" value="v"/> |

Figure 2. School-level NBIN-1: Nonbinary Student Indicator

Skip Logic

LEA-level

If an LEA answers "No" to the LEA-level NBIN-1: Nonbinary Student Indicator item, then the nonbinary rows will be skipped and the nonbinary cells will be populated "NA" and greyed out for the DSED-2. Distance

Education Enrollment and the HSEE-2. High School Equivalency Exam Preparation Program Student Participation tables.

If an LEA answers “**Yes**” to the LEA-level NBIN-1: Nonbinary Student Indicator item, then the nonbinary rows will be optional for the DSED-2. Distance Education Enrollment and the HSEE-2. High School Equivalency Exam Preparation Program Student Participation tables.

School-level

If a school answers “**No**” to the school-level NBIN-1: Nonbinary Student Indicator item, then the nonbinary rows will be skipped and the nonbinary cells will be populated “NA” and greyed out for the tables in the following modules:

- Enrollment
- Program Enrollment
- Courses & Classes
- Advanced Placement & International Baccalaureate Diploma Programme Enrollment
- SAT/ACT
- Retention
- Interscholastic Athletics
- Student Discipline
- Referrals to Law Enforcement & School-related Arrests
- Harassment or Bullying
- Restraint & Seclusion.

If a school answers “**Yes**” to the school-level NBIN-1: Nonbinary Student Indicator item, then the nonbinary rows will be required for the tables in the Enrollment module, and optional for the tables in the following modules:

- Program Enrollment
- Courses & Classes
- Advanced Placement & International Baccalaureate Diploma Programme Enrollment
- SAT/ACT
- Retention
- Interscholastic Athletics
- Student Discipline
- Referrals to Law Enforcement & School-related Arrests
- Harassment or Bullying
- Restraint & Seclusion.

For the CRDC data submission system LEA-level and the school-level tables with optional nonbinary cells, no warnings or errors will be triggered if the data submitter clicks on the cells but enters no data, enters data, or removes data.

Key Definitions

Harassment or bullying on the basis of sex refers to harmful conduct based on actual or perceived sex (including sexual orientation, gender identity, sex characteristics, sex stereotypes, and pregnancy). Harassment or bullying may take many forms, including verbal acts and name-calling; graphic and written statements, which may include use of cell phones or the Internet; or other conduct that may be physically threatening, harmful, or humiliating. This includes sexual harassment, sexual assault, and rape. Harassment or bullying includes conduct carried out by school employees, other students, or third parties.

Harassment or bullying on the basis of gender identity refers to harmful conduct based on actual or perceived gender identity (including harassment because a student identifies as or is perceived to be transgender, cisgender, or nonbinary). Harassment or bullying may take many forms, including verbal acts and name-calling; graphic and written statements, which may include use of cell phones or the Internet; or other conduct that may be physically threatening, harmful, or humiliating. Harassment or bullying includes conduct carried out by school employees, other students, or third parties.

Harassment or bullying on the basis of sexual orientation refers to harmful conduct based on actual or perceived sexual orientation (including harassment because a student identifies as or is perceived to be gay, lesbian, bisexual, or heterosexual). Harassment or bullying may take many forms, including verbal acts and name-calling; graphic and written statements, which may include use of cell phones or the Internet; or other conduct that is physically threatening, harmful, or humiliating. Harassment or bullying includes conduct carried out by school employees, other students, or third parties.

Nonbinary means not exclusively male or female. Transgender students may be reported as male, female, or nonbinary.

Frequently Asked Questions

1. How should a student's sex be reported?

For purposes of reporting sex for the CRDC, a student generally should be counted consistent with the sex listed in the student's records at the time the data are collected.

2. How should a K-12 student's sex be reported?

For the 2021–22 CRDC, a K-12 student's sex should be reported as male, female, or nonbinary. Nonbinary means not exclusively male or female. Transgender students may be reported as male, female, or nonbinary.

An LEA with recordkeeping systems that list K-12 students as nonbinary should report those students as nonbinary.

3. How should a preschool student's sex be reported?

For the 2021–22 CRDC, a preschool student's sex should be reported as either male or female. In the case of a preschooler who is identified as nonbinary, the LEA should contact the Partner Support Center for assistance.

4. How should a teacher's sex be reported?

For the 2021–22 CRDC, a teacher's sex should be reported as either male or female. In the case of a teacher who is identified as nonbinary, the LEA should contact the Partner Support Center for assistance.

5. How do nonbinary and transgender differ?

Nonbinary means not exclusively male or female. Transgender students may be reported as male, female, or nonbinary.

Transgender describes those individuals whose gender identity is different from the sex they were assigned at birth. A transgender male is someone who identifies as male but was assigned the sex of female at birth; a transgender female is someone who identifies as female but was assigned the sex of male at birth; a transgender nonbinary individual is someone who identifies as nonbinary but was assigned the sex of female or male at birth.

The 2021–22 CRDC does not collect transgender data.

6. Should transgender students be counted as nonbinary students?

For the 2021–22 CRDC, transgender students should be reported as male, female, or nonbinary.

LEAs should report a transgender student's sex based on the student's sex listed in the student's enrollment records at the time the data are collected.

7. How should a transgender student's sex be reported?

A transgender student's sex should be reported as male, female, or nonbinary.

LEAs should report a transgender student's sex based on the student's sex listed in the student's enrollment records at the time the data are collected.

8. If an LEA does not collect nonbinary information, then will the LEA be required to collect this information in the future?

OCR has added a nonbinary option to the sex category for the 2021–22 CRDC that captures data regarding K-12 nonbinary students. Only LEAs that indicate that they have one or more K-12 nonbinary students in their enrollment records are required to report student enrollment data for K-12 nonbinary students in the 2021–22 CRDC School Form Enrollment module. For these and other LEAs, the reporting of other data for K-12 nonbinary students is *optional* in the 2021–22 CRDC LEA Form Distance Education and High School Equivalency Exam modules, and the School Form Program Enrollment, Courses & Classes, Advanced Placement & International Baccalaureate Diploma Programme Enrollment, SAT/ACT, Retention, Interscholastic Athletics, Student Discipline, Referrals to Law Enforcement & School-related Arrests, Harassment or Bullying, and Restraint & Seclusion modules.

For the 2023–24 CRDC, only LEAs that indicate that they have one or more K-12 nonbinary students in their enrollment records are required to report all nonbinary student data.

9. How should an LEA report single-sex classes if they have nonbinary students?

The single-sex academic class definition used for the 2020–21 CRDC was revised for the 2021–22 CRDC. For the 2021–22 CRDC, single-sex academic class refers to an academic class in a co-educational school that excludes boys or girls from enrolling or otherwise participating in that class because of their sex. A class is not considered single-sex so long as it does not exclude boys or girls, even if students of only one sex, or a disproportionate number of students of one sex, enroll.

A class should be treated as single-sex if it excludes one sex from participating, even if it includes nonbinary students with male or female students.

For the 2021–22 CRDC, nonbinary is defined as not exclusively male or female. Transgender students may be reported as male, female, or nonbinary.

For example, for a co-educational school that has an academic class with four female students and one nonbinary student that excludes male students from enrolling or participating in that class, the class should be considered single-sex.

10. Why are LEA-level and school-level nonbinary indicators included in the Flat File Specifications Excel file but not in the CRDC LEA or school forms?

The nonbinary indicators collect metadata, and for that reason, OCR intentionally omitted them from the forms. However, because the nonbinary indicators appear in the 2021–22 CRDC data submission system, OCR included the nonbinary indicators in the 2021–22 CRDC flat file specifications file.

11. How do I account for a student that changed their sex/gender identification to or from nonbinary mid-year?

For guidance on how to report students who changed their sex to or from nonbinary during the 2021–22 school year, please see the *2021–22 CRDC Guidelines for Reporting Student Demographics Data* document, available on the Civil Rights Data Collection Resource Center website (<https://crdc.communities.ed.gov/#communities/pdc/documents/21840>).

12. How do I report an allegation of harassment or bullying based on a student's nonbinary status?

For the 2021–22 CRDC, an allegation of harassment or bullying of a student based on a student's nonbinary status should be counted as an allegation of harassment or bullying based on sex and an allegation of harassment or bullying based on gender identity. Harassment or bullying on the basis of gender identity is a subset of harassment or bullying on the basis of sex.

13. Do nonbinary student participants affect classification of interscholastic teams as single sex?

No. For the 2021–22 CRDC school-level interscholastic athletics sports and teams items, nonbinary student participants do not affect the sports or teams that are considered male, female, or all students teams.

Please see examples below:

- A football varsity team with 24 male participants and 1 nonbinary participant is considered a male team.
- A volleyball varsity team with 19 female participants and 1 nonbinary participant is considered a female team.
- A wrestling varsity team with 6 male participants, 5 female participants, and 1 nonbinary participant is considered an all students team.

14. Does having at least one female (or male) participant on an otherwise all male (or all female) sports team make the sports team an all students sports team?

Yes. Please see examples below:

- A football varsity team with 24 male participants and 1 female participant is considered an all students team.
- A volleyball varsity team with 19 female participants and 1 male participant is considered an all students team.
- A wrestling varsity team with 6 male participants, 1 female participant, and 1 nonbinary participant is considered an all students team.

15. Is Gender 'X' the same as nonbinary?

For the 2021–22 CRDC, nonbinary means not exclusively male or female. Transgender students may be reported as male, female, or nonbinary.

For an LEA that uses the X marker to indicate nonbinary status in its data collections, the LEA should include those students in the nonbinary counts for the CRDC.

16. How should an LEA report niche gender categories other than nonbinary?

Questions involving “niche gender categories” should be sent to the CRDC Partner Support Center.