



Georgetown University
Health Policy Institute
CENTER FOR CHILDREN
AND FAMILIES



VIA ELECTRONIC SUBMISSION

October 15, 2026

Census Bureau
U.S. Department of Commerce
Attention: USBC-2026-0628
4600 Silver Hill Road
Designation: ADDEMO/FRN
Washington, DC 20746

Re: Comments to USBC-2026-0628
Decennial Census of the Population of Americans; Proposed Residence Criteria and
Proposed Regulations for Demographic Questions

The Center for Children and Families (CCF), part of the McCourt School of Public Policy at Georgetown University, is an independent, nonpartisan policy and research center that conducts research, develops strategies, and offers policy solutions to support access to high-quality, comprehensive, and affordable health coverage for the nation's children and families, particularly those with low- and moderate-incomes. Thank you for the opportunity to make the following comments to this Census Bureau proposed rule, which are based on our deep expertise in health policy, in the Medicaid program, and in analysis of Census Bureau survey data.

According to the Census Bureau, the goal of the decennial census is to count every person "once, only once, and in the right place," both for apportionment as set forth by the 14th Amendment, and for the myriad ways Census data have come to be relied upon in the country's health policy ecosystem, including for directing federal program funding, providing population data for vital statistics, tracking health coverage trends and health disparities, monitoring public health, and many others. On September 10, 2026, the Census Bureau published a Notice of Proposed Rulemaking on Decennial Census of the Population

of Americans; Proposed Residence Criteria and Proposed Regulations for Demographic Questions (the “NPRM”).¹

The NPRM’s changes to residence criteria and the elimination of race, ethnicity, and sexual orientation data are purportedly intended to enact a fairer count for apportionment and to reduce respondent burden while protecting sensitive data. However, if finalized, this rule would unconstitutionally exclude noncitizens without lawful permanent residence and therefore deprive communities of resources and representation; make certain population groups, such as young children, more likely to be missed or counted in the wrong place; upend centuries of race and ethnicity data collection; and damage the accuracy, integrity, and usefulness of decennial census data and numerous other federal datasets.

We would first like to request a further extension to the comment period, in recognition of the severity of the changes to the decennial census proposed in this rule. While the original comment period was just 33 days, the Department of Commerce and the Census Bureau recently issued a 20-day extension on October 5, 2026.² However, a 90-day comment period is far more typical and reasonable in order to provide sufficient time for public comments to a regulatory action of this major significance that involves such radical changes, especially with the termination of the Census Bureau’s Advisory Committees. The Census Bureau should immediately extend the comment period to a full 90 days in order to provide a meaningful opportunity for public input.

As discussed further below, we strongly oppose the NPRM and recommend that the Census Bureau *entirely withdraw the NPRM and not finalize the NPRM’s residence criteria, or the elimination of questions on race and ethnicity and a ban on questions related to sexual orientation.*

- The NPRM would violate the Constitution, statutory Census requirements, settled law, and the requirements of the Administrative Procedure Act, and would represent a severe departure from longstanding decennial Census policy and practice.
- These proposed changes, if finalized, would exclude, undercount, and miscount several population groups; distort population totals that determine funding for Medicaid and the Children’s Health Insurance Program (CHIP) through the Federal Medical Assistance Percentage (FMAP) formula; damage the accuracy of population

¹ U.S. Census Bureau, “Decennial Census of the Population of Americans; Proposed Residence Criteria and Proposed Regulations for Demographic Questions,” 91 Fed. Reg. 57524, September 10, 2026, <https://www.federalregister.gov/documents/2026/09/10/2026-18481/decennial-census-of-the-population-of-americans-proposed-residence-criteria-and-proposed-regulations>.

² U.S. Census Bureau, “Decennial Census of the Population of Americans; Proposed Residence Criteria and Proposed Regulations for Demographic Questions; Extension of Comment Period,” 91 Fed. Reg. 63207, October 5, 2026, <https://www.federalregister.gov/documents/2026/10/05/2026-20328/decennial-census-of-the-population-of-americans-proposed-residence-criteria-and-proposed-regulations>.

controls and weights used in other federal datasets such as the American Community Survey (ACS); and impose an unprecedented limitation on the collection of race and ethnicity data.

- For the decennial census, the Census Bureau should continue to count all residents regardless of immigration status, withdraw other changes to the residence criteria, and continue collecting race and ethnicity data while implementing the 2024 U.S. Office of Management and Budget's Statistical Policy Directive No. 15 (SPD 15) standards.

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Health Policy Research and Medicaid and CHIP Funding Depend on Reliable Census Data

CCF relies heavily on both decennial census data and other Census Bureau datasets, primarily the ACS. We use national and state population totals from the Population Estimates Program (PEP) to calculate the share of children enrolled in Medicaid and CHIP by state, and ACS historical and detailed tables and microdata to analyze child uninsured rate trends by age, race and ethnicity, and income at the national level in our annual report on children's coverage and at the state level on our State Data Hub; to analyze uninsured and Medicaid and CHIP coverage rates in reports on rural areas, young children, and Hispanic/Latino children; to track and visualize Medicaid and CHIP coverage rates by county, school district, and Congressional district; and to perform technical assistance for national and state partners, such as analyzing state program eligibility changes and outreach targeting.

Census data also inform the distribution of as much as \$3 trillion in federal funds,³ more than half of which goes through the Department of Health and Human Services (HHS), and more than one-third of which goes to programs serving children, primarily through Medicaid and CHIP.⁴ For example, as discussed further below, the formula for the regular federal Medicaid matching rate (known as the Federal Medical Assistance Percentage or FMAP) uses state population totals based on the decennial census, as the FMAP is based on a state's per capita income relative to the national average (with states with lower per-capita incomes receiving a higher regular FMAP rate and states with higher per capita incomes receiving a lower regular FMAP). The FMAP is also the basis for determining the

³ Ceci Villa Ross, "Uses of Decennial Census Programs Data in Federal Funds Distribution: Fiscal Year 2021, U.S. Census Bureau, June 2023, <https://www2.census.gov/library/working-papers/2023/decennial/census-data-federal-funds-fy-2021.pdf> and Sean Moulton and Janice Luong, "Funding Our Communities," Project on Government Oversight, October 25, 2025, <https://www.pogo.org/reports/census-matters-why-an-accurate-count-is-essential-to-funding-our-communities>.

⁴ Janice Luong and Sean Moulton, "Census Matters: How the Census Shapes Funding for Children," Project on Government Oversight, July 17, 2026, <https://www.pogo.org/reports/census-matters-how-the-census-shapes-funding-for-children>.

enhanced CHIP match rate, and child population totals are used to adjust each state's CHIP allotment amounts between so-called rebasing years. The FMAP also determines federal funding shares for several other grant programs, including Title IV-E Foster Care, Title IV-E Adoption Assistance, Child Care Entitlement to States, and TANF Contingency Funds.⁵

Additionally, decennial-based state population totals and ACS data are used in relation to other aspects of the Medicaid and CHIP programs. Population totals factor into the Consumer Price Index for All Urban Consumers (CPI-U), which is used to adjust the HHS poverty guidelines used to determine eligibility for Medicaid, CHIP, and numerous other federal programs. Medicaid and CHIP administrative data are also linked to ACS data to produce the Census Bureau Small Area Health Insurance Estimates (SAHIE) data, the only county-level single-year estimates of health coverage available for selected economic and demographic groups. ACS data are also used as data quality benchmarks for some measures in the Transformed Medicaid Statistical Information System (T-MSIS) data.

Finally, population totals derived from the decennial Census are used to weight other major federal surveys including the ACS, Current Population Survey (CPS), and the National Health Interview Survey (NHIS), which are used to examine topics such as health insurance coverage, access to care, and care utilization. Population totals also serve as denominators for calculating key statistics such as fertility rates and maternal and infant mortality rates, and researchers and advocates rely on the comprehensiveness, detail, and accuracy of Census Bureau race and ethnicity data to examine trends and progress in health disparities.

Decennial Census Data for Young Children Already Suffers from Shortcomings

Research shows that more than 1.5 million children under age 18 were missed in the 2020 decennial census, a net undercount of 2.1% according to Census Bureau Demographic Analysis (DA) estimates.⁶ Furthermore, young children ages 0 to 4 were undercounted by 5.4%, the largest coverage error for young children since the undercount began worsening in 1980 and the worst rate of any age group.⁷ Additional research shows that the undercount was especially large among both Black and Hispanic children.⁸

⁵ Congressional Research Service, "Medicaid's Federal Medical Assistance Percentage (FMAP), Updated April 2, 2025, https://www.congress.gov/crs-product/R43847?_cf_chl tk=OPUa2sK8pNy8FGC1IeISl.Nn5Fypth1xj00GzlnJJ4-1790192511-1.0.1.1-wfbvTgDU45vlgMG3ETc7PDty5rdeMuXD3nErKCC3BtU.

⁶ William O'Hare, "Census Data Release Shows the 2020 Census Had a Higher Net Undercount of Children than in 2010," Count All Kids, August 20, 2021, <https://countallkids.org/resources/census-data-release-shows-the-2020-census-had-a-higher-net-undercount-of-children-than-in-2010/>.

⁷ Eric Jensen, "Census Bureau Expands Focus on Improving Data for Young Children," U.S. Census Bureau, March 10, 2022, <https://www.census.gov/library/stories/2022/03/despite-efforts-census-undercount-of-young-children-persists.html>.

⁸ William O'Hare, "Analysis Shows There Was an Extremely High Net Undercount of Young Black Children in the 2020 Census," Count All Kids, March 10, 2025, <https://countallkids.org/resources/analysis-shows-there-was-an-extremely-high-net-undercount-of-young-black-children-in-the-2020-census/> and Susana Quiros and William O'Hare, "Towards a More Accurate Count: Identifying State-Level Predictors of the Undercount of

The Census Bureau has undertaken extensive research on this undercount to better understand the reasons for the undercount, improve data collection, and to develop more-representative data products.⁹ For example, the 2030 Census Advisory Committee Undercount of Young Children Working Group was chartered on February 4, 2025, but their charter was ended a mere 24 days later on February 28, 2025, despite being set to continue through 2028.¹⁰ Additionally, the 2030 Operational Census Plan originally included several strategies to improve the count of young children.¹¹ However, the revised 2026 Operational Test in Support of the 2030 Census plans as posted in the *Federal Register* on February 3, 2026, did not include these strategies. The Government Accountability Office (GAO) later recommended that “[t]he Secretary of Commerce should instruct the Director of the U.S. Census Bureau to research and test the operational activities and design features removed from the 2026 Census Test prior to finalizing its design of the 2030 Census.”¹² The status of GAO’s recommendation remains open as of this writing but a recent report from the Department of Commerce Office of Inspector General suggested that the Census Bureau should “ensure that it has a sufficient budget to evaluate initiatives untested during its 2026 Census Test.”¹³

Furthermore, the application of disclosure avoidance methods that added statistical noise to 2020 census data below the block level allowed highly-detailed population data to be published for small geographies and allowed for new types of analysis on the data quality of the count for young children, such as experimental DA net coverage error estimates for young children at the state and county levels.¹⁴ The recent Department of Commerce Department Administrative Order 216-26 (DAO 216-26),¹⁵ which bans noise infusion

Young Hispanic Children in the 2010 and 2020 U.S. Censuses,” *Population Research and Policy Review*, November 8, 2024, <https://link.springer.com/article/10.1007/s11113-024-09918-y>.

⁹ See for example, Eric Jensen and Lauren Medina, “Overview of the Young Children Work Group,” U.S. Census Bureau, <https://www2.census.gov/about/partners/cac/nac/meetings/2023-11/presentation-overview-young-children-working-group.pdf>.

¹⁰ U.S. Census Bureau 2030 Census Advisory Committee, Undercount of Young Children Working Group, Approved February 4, 2025, <https://www2.census.gov/about/partners/cac/2030cac/wg-undercount-children.pdf>.

¹¹ U.S. Census Bureau, “2030 Census Operational Plan,” July 2025, <https://www2.census.gov/programs-surveys/decennial/2030/program-management/planning/operational-plan/2030-census-operational-plan.pdf>.

¹² Government Accountability Office, “2030 Census: Census Bureau Needs Additional Data to Inform Design Decisions,” June 4, 2025, <https://www.gao.gov/products/gao-26-108848>.

¹³ U.S. Department of Commerce Office of Inspector General, “Top Management and Performance Challenges Facing the Department of Commerce in Fiscal Year 2027,” October 1, 2026, https://www.oig.doc.gov/wp-content/OIGPublications/OIG-27-001_SECURED.pdf.

¹⁴ Eric Jensen and George Hayward, “Most Counties Had an Undercount of Young Children in 2020 Census by County,” U.S. Census Bureau, <https://www.census.gov/library/stories/2024/04/children-undercount.html>.

¹⁵ U.S. Department of Commerce, “Disclosure Avoidance for Statistical Products,” DAO 216-26, June 4, 2026, <https://www.commerce.gov/opog/disclosure-avoidance-statistical-products>.

methods, poses a serious challenge to the release of further, accurate data products about young children.

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NPRM Would Violate the Constitution, Census Statutory Requirements, Longstanding Census Policy and Practice, and the Administrative Procedure Act

As discussed further below, by excluding noncitizens, the NPRM clearly violates the Constitution, specifically the 14th Amendment. It also clearly conflicts with statutory requirements not only related to Census but to civil rights laws (among others), settled law, and the Census Bureau's longstanding policy and practice for the decennial Census.

Notably, the NPRM also raises serious concerns because it likely fails to comply with rulemaking requirements under the Administrative Procedure Act. For example, for the legal authority that serves as the basis of the NPRM's radical changes to the decennial census such as not counting all residents, the Census Bureau can only weakly point to "preliminary" legal determinations it has made. And these preliminary legal determinations are highly flawed; for example, they cite Article I, Section 2 of the Constitution without mentioning the applicable language of the 14th Amendment. In claiming that counting all residents "has also been heavily criticized within the Federal government itself" thereby justifying the NPRM's exclusion of noncitizens, the Census Bureau cites only a presidential memorandum issued during the first Trump Administration (that was blocked by the courts and later revoked by the subsequent Administration) and five bills introduced in the House of Representatives in the last two Congresses (of which four were the subject of no House action and of which one was only narrowly reported out of a House Committee but has never been voted on by the full House). Of course, the memorandum and these unenacted House bills confer no additional legal authority to the Census Bureau. In the preamble, the Census Bureau argues that other Census surveys including the ACS are an adequate substitute but at the same time, in the Regulatory Impact Analysis (RIA), the Census Bureau acknowledges that the ACS is not in fact an adequate substitute and its data will be less reliable due to the changes proposed in the NPRM. Finally, as discussed further below, the RIA conducted by the Census Bureau is a draft that is highly preliminary, not comprehensive, wholly incomplete, and clearly unsound. For example, the RIA acknowledges that the NPRM's changes could affect trillions of dollars in federal spending but the Census Bureau admits it does not have the information necessary to quantify these effects, acknowledges it did not even attempt to make any estimates, and even denies the NPRM is economically significant.

This all demonstrates that in crafting and issuing the NPRM, the Census Bureau was not relying on reasoned decisionmaking, lacked clear legal basis and authority, and ignored the major impact the NPRM's changes would have on the accuracy and reliability of the decennial census, other Census surveys, and other federal data, and on numerous federal programs involving trillions of dollars in federal spending. As a result, the NPRM is likely in violation of agency rulemaking requirements as well.

NPRM's Proposed Residence Criteria Would Exclude, Undercount, and Miscalculate Population Groups and Distort Funding Through the FMAP Formula

General definition of “usual residence” for conducting the Decennial Census (§ 60.2)

A person’s “usual residence” has been understood to mean simply the “place where a person lives and sleeps most of the time,” according to longstanding Census policy and practice¹⁶ and if there is no usual place, to count them where they are on April 1 in accordance with 13 U.S.C. §141. The NPRM would supplant that definition with requirements that a person’s residence be “consistent with, and evidenced by” tax records; use of a convoluted formula for determining usual residence; and an unprecedented “enumeration period” that is inconsistent with both Title 13 and other parts of this proposed rule.

First, while tax records may *corroborate* residence in some cases, they are not an appropriate means of *determining* residence, particularly for children. We note that the media has reported that the Department of Treasury provided the same feedback to the Department of Commerce on a draft of this NPRM before it was published, and the Department of Commerce rejected these concerns.¹⁷ For all individuals, tax records are based on mailing address and therefore may list places such as a post office box, a tax preparer’s address, business address, or a relative’s address, rather than a person’s residential address for census purposes. Furthermore, this NPRM does not describe what would happen for individuals with conflicting addresses.

Additionally, forms like W-2s are filed by individuals and do not provide information on the entire household, which the census is required to count, and individuals with low incomes below the legal filing threshold may not have tax records available. These issues pose a particular risk of excluding children from the count if they do not appear in tax records or if their parents do not file taxes. The Census Bureau’s own research on California birth records found that certain groups of children — including children in lower-income families, children with parents who have lower English proficiency levels, and children whose mothers are Black or Hispanic — were less likely to appear in IRS data, concluding

¹⁶ See for example, U.S. Census Bureau, “Final 2020 Census Residence Criteria and Residence Situations,” 83 Fed. Reg. 5525, February 8, 2018, (for the 2020 decennial census), <https://www.federalregister.gov/documents/2018/02/08/2018-02370/final-2020-census-residence-criteria-and-residence-situations>; U.S. Census Bureau, “2010 Census Residence Rule and Residence Situations: Facts About the Census 2010 Residence Rule and Residence Situations,” Revised October 8, 2021 (for the 2010 decennial census), <https://www.census.gov/programs-surveys/decennial-census/decade/2010/about-2010/residence-rule.html>; and U.S. Census Bureau, “Plans and Rules for Taking the Census: Residence Rules: Facts about Census 2000 Residence Rules,” (for the 2000 decennial census) https://www2.census.gov/programs-surveys/decennial/2000/program-management/1-plan/address-list-development/resid_rules.pdf.

¹⁷ Josh Kovensky and Layla Jones, “Exclusive: Commerce Overruled Treasury Concerns in Push to Narrow Census Count, *Talking Points Memo*, September 17, 2026, <https://talkingpointsmemo.com/news/exclusive-commerce-overruled-treasury-concerns-in-push-to-narrow-census-count>.

that “using IRS 1040 dependent records for these populations, whose characteristics are associated with the undercount of children in surveys, may be limited.”¹⁸ Children may be more likely to appear in other types of IRS records. For example, state Medicaid and CHIP agencies are required to file Form 1095-B with the IRS, so children enrolled in Medicaid and CHIP coverage may have 1095-B records on file though it is unclear how comprehensive and complete such filings are. However, Medicaid agencies are not required to file Form 1095-B for individuals enrolled in certain partial-benefits programs or for individuals enrolled in other minimum essential coverage, and Medicaid agencies in U.S. territories are not required to report Form 1095-B.¹⁹

Second, the NPRM introduces the concept of an “enumeration period” lasting from January 3 to April 1, which clearly conflicts with statutory requirements and introduces inconsistencies with other parts of the rule itself. Federal law states that “The Secretary shall, in the year 1980 and every 10 years thereafter, take a decennial census of population as of the first day of April of such year, which date shall be known as the ‘decennial census date.’”²⁰ The NPRM violates this statute by factoring in time spent in the three months prior to Census Day. This enumeration period is even inconsistent with other aspects of the NPRM such as the proposed requirements that a person’s residence be “consistent with, and evidenced by” tax documents, as the enumeration period ends prior to Tax Day and allowable extension dates.

Third, the NPRM defines usual residence as the place where a person has spent the greatest number of days during the enumeration period, but goes on to define a “day” as “at least one hour physically and lawfully present there that day. A person may spend a certain day at more than one residence.” In addition to introducing a “lawfully present” requirement that has never been included in any census dating back to 1790 and is likely to reduce response rates as discussed in more detail below, and in addition to failing to define what counts as a “residence,” this language suggests that each person must account for and tally up every place they spent at least one hour during a three-month period to report the location where they spent the most “days,” even if that place is not their usual residence on April 1. This will be a complicated formula to parse for individuals in complex living situations, such as children in foster care, those who live under shared custody agreements, or who live with grandparents, other relatives, or other caretakers.

Finally, the NPRM does not discuss how it would resolve cases where a person spends an equal amount of time at more than one residence, such as a child who spends days in one guardian’s home and sleeps at a different parent’s home, therefore spending one “day” in both places. In another example, a child attending an in-home daycare and splitting time

¹⁸ Gloria Aldana, “Comparison of Child Reporting in the American Community Survey and Federal Income Tax Returns Based on California Birth Records,” U.S. Census Bureau, September 2024, <https://www2.census.gov/library/working-papers/2024/adrm/ces/CES-WP-24-55.pdf>.

¹⁹ Internal Revenue Service, “2025 Instructions for Forms 1094-B and 1095-B,” <https://www.irs.gov/pub/irs-pdf/i109495b.pdf>.

²⁰ See 13 U.S.C. §141.

between two parents could end up spending the most “days” during the enumeration period at the daycare center; the NPRM does not clarify whether an in-home daycare counts as a residence, so it is unclear where the child would be counted. The lack of specificity will all but ensure that individuals are counted in the wrong place or wrongfully excluded from the count altogether despite the Census Bureau’s own commitments and goals. **The Census Bureau should therefore drop all of these proposed changes to residence criteria — including reliance on tax data, references to “lawful residence,” and the creation of an enumeration period — as well as reestablish reasonable guidance for detailed residence situations.**

Dependents (§ 60.3)

While previous census residence criteria have provided detailed guidance on residence situations, including for children, this proposed rule does not define either “dependents” or “providers,” and thus it is not sufficient for clarifying how individuals should be counted. **The Census Bureau should provide additional detail for the definition of dependents and reestablish guidance for detailed residence situations.**

Foreign citizens in the United States (§ 60.4)

The 14th Amendment to the Constitution is clear in its requirement of a count of the “whole number of persons in each State” for apportionment purposes. Entirely ignoring the necessity of a Constitutional amendment to do so, the NPRM invents a new “preliminary” interpretation of this constitutional requirement, in direct conflict with the 14th Amendment’s plain language and straightforward meaning, and uses this as the basis for an unprecedented exclusion of individuals without lawful permanent residence status. This unfounded preliminary interpretation also clearly conflicts with the statutory language related to apportionment which shall include “the whole number of persons in each State” consistent with the Constitution²¹ as well as settled law related to the census and longstanding Census policy and practice all the way back to 1790.

Such an exclusion would also incorrectly and artificially decrease population totals, which would deprive communities of federal funding and raise numerous data quality concerns. First, as stated above, Census Bureau data inform the distribution of as much as \$3 trillion in federal funds, more than half of which goes through the Department of Health and Human Services (HHS), and more than one-third of which goes to programs serving children, primarily through Medicaid and CHIP.²² As noted, the FMAP formula relies on state population totals based on the decennial census to determine the share of Medicaid, CHIP, and other programmatic costs the federal government covers for each state, so a complete and accurate count of the U.S. population is essential to these programs’ funding.

²¹ See 2 U.S.C. § 2a.

²² See Ross, *op cit*; Moulton and Luong, “Funding Our Communities,” *op cit*; and Luong and Moulton, “Census Matters: How the Census Shapes Funding for Children,” *op cit*.

A chilling effect on the census response rate, discussed in more detail below, would further suppress population totals and improperly deprive several states of vital funds: one analysis using 2010 census data found that states above the minimum 50% FMAP rate lost out on as much as \$2,309 per person missed in the 2010 Census for programs that rely on FMAPs for their funding formulas.²³ This loss of funding harms all residents of a state, not just those who are excluded from the census count.

Forty states have regular FMAP rates above the 50% minimum FMAP. Because income remains the same regardless of the population count, a population undercount for a state in the census would artificially inflate the per-capita income used to determine FMAP funding by dividing total income among fewer individuals. The national per-capita income would artificially increase, while state effects would vary since the FMAP formula compares state per-capita income relative to the national average. To illustrate the impact on FMAP rates in certain states if the noncitizen population were fully excluded, we looked at how current fiscal year 2027 regular FMAP rates would be affected (assuming that these decennial Census changes proposed in the NPRM were already fully implemented and were being used to determine FMAP rates in 2027.) States with high numbers of noncitizens — like Florida, Texas, and Nevada — could have seen their 2027 FMAP rates fall by as much as 3.7, 3.5, and 2.2 percentage points respectively if the noncitizen population were fully excluded.²⁴ (This could be an overestimate if all lawful permanent residents are fully counted and not inadvertently excluded under the NPRM but it is also likely that the NPRM will also result in substantial undercounting among citizens living in mixed status families.) The magnitude of such FMAP reductions would result in substantial reductions in federal funding. Again, to illustrate the impact, looking at fiscal year 2024 Medicaid spending, FMAP reductions of this magnitude in that year alone would have resulted in a loss in federal Medicaid funding of roughly \$1.3 billion in Florida, \$1.6 billion in Texas, and \$78 million in Nevada.²⁵

Such states would see their federal Medicaid funding decline and have to contribute a greater share of their own funding to sustain their Medicaid programs (as well as other programs like CHIP that use the FMAP in their funding formulas) at a time when state budgets would already be significantly harmed by cuts to Medicaid included in H.R. 1 (P.L. 119-21 also known as the “One Big Beautiful Bill Act”). By contrast, states with fewer noncitizens, like Montana, South Dakota, and Vermont, could see their FMAP rates rise by as much as 5 percentage points under our illustrative analysis for fiscal year 2027.²⁶

²³ Andrew Reamer, “Counting for Dollars 2020: The Role of the Decennial Census in the Geographic Distribution of Federal Funds,” GW Institute of Public Policy, March 19, 2025, <https://gwipp.gwu.edu/sites/g/files/zaxdzs6111/files/downloads/GWIPP%20Reamer%20Fiscal%20Impacts%20of%20Census%20Undercount%20on%20FMAP-based%20Programs%2003-19-18.pdf>.

²⁴ Georgetown University Center for Children and Families estimates based on U.S. Bureau of Economic Analysis data, 2024 American Community Survey data, and fiscal year 2027 FMAP rates.

²⁵ Georgetown University Center for Children and Families estimates based on fiscal year 2024 CMS-64 data.

²⁶ Georgetown University Center for Children and Families estimates based on U.S. Bureau of Economic Analysis data, 2024 American Community Survey data, and fiscal year 2027 FMAP rates.

Finally, the proposed exclusion of individuals without lawful permanent residence status raises a number of serious data quality concerns, including reduced response rates and unreliable population controls. Restricting the count to exclude individuals without lawful permanent residence status presumes the creation of a new question on immigration status, which to our knowledge has not ever been tested, either as a cognitive test, a field test, or an ACS content test even though it is a suggested approach in the preamble. However, such a question would be very likely to have a substantial chilling effect on response rates, not only among noncitizens but also individuals in mixed-status households where some members may be citizens and others not. To illustrate, the Census Bureau's own research on adding a citizenship question, following extensive testing, has found that response rates declined among both noncitizens and individuals in mixed-status households, suggesting that the resulting undercount will be larger than simply excluding individuals without lawful permanent residence status.²⁷

Nonresponse would particularly affect the count of children as more than 1 in 4 children lives with immigrant parent. Of the 18.3 million children living with an immigrant parent, more than 85 percent were born in the United States. Additionally, nonresponse would distort population totals unequally across states, disproportionately affecting states such as California, Texas, Florida, New York, and New Jersey, and would affect the count at local levels within these states differently as well.²⁸

Additionally, because decennial census data form the basis of population controls and sampling weights used in numerous other federal datasets, the effects of an undercount would substantially distort other surveys such as the ACS, CPS, and NHIS. For example, an undercount could reduce the number of geographies with populations large enough to meet the 65,000-person threshold for ACS estimates to be produced; could make the CPI-U less reliable, which would affect Census Bureau poverty thresholds and the HHS poverty guidelines used to set Medicaid and CHIP eligibility thresholds; or could incorrectly declare state T-MSIS data usable or unusable for measures benchmarked to ACS estimates. Furthermore, higher nonresponse among individuals in lower-income communities could artificially reduce estimates of uninsurance and Medicaid and CHIP coverage in survey data. According to the Census Bureau's own analysis in the NPRM's RIA, "the ACS has several limitations compared with the decennial census...The accuracy of ACS total-population estimates may decline because the ACS will not have an updated full count of the U.S. population."

²⁷ See J. David Brown and Misty Heggeness, "Citizenship Question Effects on Household Survey Response," *Journal of Policy Analysis and Management*, March 20, 2025, <https://onlinelibrary.wiley.com/doi/10.1002/pam.70004> and J. David Brown and Misty Heggeness, "Citizenship Question Effects on Household Survey Response," U.S. Census Bureau, June 2024, <https://www.census.gov/library/working-papers/2024/adrm/CES-WP-24-31.html>.

²⁸ Jeanne Batalova, "Frequently Requested Statistics on Immigrants and Immigration in the United States," Migration Policy Institute, March 12, 2026, <https://www.migrationpolicy.org/journal/spotlight/frequently-requested-statistics-immigrants-and-immigration-united-states>.

In compliance with the Constitution and to ensure the accuracy of the decennial census, the Census Bureau must count for apportionment all people residing in the United States in the 2030 Census, regardless of immigration status. The Census Bureau should therefore drop the NPRM's proposed changes to exclude any individuals without lawful permanent residence status, as well as other proposals contemplated in the NPRM such as introducing an untested question about immigration status.

NPRM's Proposed Elimination of Race and Ethnicity Information Would be an Unprecedented Retraction of Demographic Data and Damage the Accuracy of Census Population Controls and Sampling Weights

Restrictions on the inclusion of certain demographic questions (§ 70.2)

Race and ethnicity data have been collected in some form in every decennial census since the count began in 1790, and sexual orientation is not currently a standalone question asked in the census. In complete disregard of these precedents, the proposed rule would take the unprecedented step of banning race, ethnicity, and sexual orientation questions from appearing on decennial census forms. This would conflict with multiple federal civil rights statutes that require race and ethnicity data in order to be enforced.²⁹

The elimination of such demographic information from the decennial census would severely limit the calculation of many vital statistics, particularly for children and families, and damage the accuracy and reliability of federal datasets. Additionally, the proposed rule would make response voluntary for nearly all questions, in violation of 13 U.S.C. § 221.

Census population totals, including totals broken down by race and ethnicity, are some of the most critical pieces of data the country produces to understand our population, not least of all because they serve as the denominators for calculating vital statistics including fertility rates and maternal and infant mortality rates. Without detailed, accurate race and ethnicity data, we cannot examine trends or progress in health disparities, such as higher rates of uninsurance and forgoing care because of cost, higher rates of both maternal and infant mortality, higher rates of breast cancer and diabetes mortality, and shorter life expectancies overall among people of color compared to White individuals.³⁰ Disparities do not cease to exist simply because the data to understand them vanishes, but progress

²⁹ See, for example, U.S. Census Bureau, "Why We Ask the Race Question," 2020, <https://www2.census.gov/programs-surveys/decennial/2020/partners/outreach-materials/handouts/why-we-ask-the-race-question.pdf>.

³⁰ Jess Maksut et al., "The Commonwealth Fund 2026 State Health Disparities Report," The Commonwealth Fund, April 29, 2026, <https://www.commonwealthfund.org/publications/fund-reports/2026/apr/commonwealth-fund-2026-state-health-disparities-report>.

towards narrowing persistent gaps will stall without the data needed to study them and to direct resources towards fixing them. Race and ethnicity data are also particularly important for children, and for young children under age 5, who are the most racially and ethnically diverse group of any age.³¹

The preamble states that one of the Census Bureau's considerations in proposing to eliminate the collection of such demographic data is related to disclosure risks. The preamble correctly notes that to protect respondent information, noise infusion methods were applied in the 2020 decennial census to population data below the state level, including redistricting data. Yet while privacy and confidentiality concerns are used here as the rationale for the NPRM, in June 2026, the Department of Commerce actually issued an order (DAO 216-26) which took the unprecedented step of barring the Census Bureau from using noise infusion methods even though such privacy methods are widely considered to be the gold standard.³² As a result, this has made it considerably more difficult to protect confidential census information, including demographic data. To illustrate, differential privacy, one type of noise infusion method, was chosen for the 2020 census to protect against vulnerabilities identified in a Census Bureau simulation following the 2010 census, including the risk under inferior privacy protections of potential reidentification of race and ethnicity responses for 3.4 million individuals of a different race and ethnicity than was what was most common in their census block.³³ Under the order, the 2030 census will not even be allowed to apply the privacy methods used in the 2010 census and must actually revert to the antiquated methods not used since 1980. Furthermore, the NPRM, by excluding individuals without lawful permanent residence status and by reducing response rates in the multiple ways discussed above, would damage the accuracy of the underlying data more severely than any uncertainty introduced by noise infusion methods to protect privacy and confidentiality. By not collecting race and ethnicity data, the NPRM would thus seriously weaken the utility of decennial census data for such critical tasks as redistricting. As a result, the NPRM's rationale of concerns over privacy and confidentiality appears wholly pretextual.

A lack of race and ethnicity information from the decennial census also raises a number of highly problematic data quality issues. Race and ethnicity are a cornerstone of Census DA coverage estimation; without race and ethnicity data, it will be impossible even to understand how accurate the census count was or whether certain groups of individuals, such as young children and Black and Hispanic children, were more likely to be missed than others. Prohibiting race and ethnicity questions will also have ripple effects throughout other data sources, particularly the ACS, primarily because decennial data serve as

³¹ Megan Rabe, "Exploring the Racial and Ethnic Diversity of Various Age Groups," U.S. Census Bureau, September 6, 2023, <https://www.census.gov/newsroom/blogs/random-samplings/2023/09/exploring-diversity.html>.

³² U.S. Department of Commerce, *op cit*.

³³ John Abowd et al., "A Simulated Reconstruction and Reidentification Attack on the 2010 U.S. Census: Full Technical Report," U.S. Census Bureau, December 2023, <https://www.census.gov/library/working-papers/2023/adrm/CES-WP-23-63.html>.

population controls and sample weights as discussed above. Moreover, the changes to the population controls without this demographic information would be so severe that the resulting data products would likely no longer be comparable to earlier products produced with such race and ethnicity information. This would make it impossible to conduct high-quality, reliable trend analyses on any number of topics, not just those related to race and ethnicity. It is important to note that the Census Bureau itself acknowledges many of these serious concerns in the RIA, noting that numerous “key dependencies have been structured around the reliable annual release of intercensal estimates for race and ethnicity, such as population controls for major federal surveys; denominators for crucial social and economic indicators (e.g., fertility/mortality rates, cancer rates, poverty rates, unemployment rates, labor force participation, etc.); required information for state and federal grants and other funding formulas; foundational data to support planning at the local level (infrastructure, real estate, and other investments); and essential inputs for countless research projects across academia, government, and the private sector.” Moreover, in the preamble, the Census Bureau flippantly suggests that the ACS and other surveys could serve as an adequate substitute even though such surveys will be distorted by the NPRM’s elimination of these demographic questions (as discussed further below).

While sexual orientation is not currently a standalone question on the census, it has been measured in previous censuses through household relationships, which the Census Bureau has invested in improving for this purpose, identifying 1.2 million same-sex couples.^{34, 35} Additionally, research has shown that LGBTQ adults are more likely to have Medicaid coverage, that an estimated 5 million children are being raised by an LGBTQ parent, and that children of same-sex parents may face more barriers to care.^{36, 37, 38} The NPRM would not only foreclose a question on sexual orientation from appearing on future censuses, it would foreclose even the research, testing, consultation with other federal agencies, and stakeholder input regarding a potential question. The Census Bureau has not provided sufficient evidence or reasoning for the prohibition of a question that does not exist and which could provide valuable data on family structures in the United States. **The Census Bureau should therefore drop the proposed ban on demographic questions, and should continue to ask about race and ethnicity as it has done in every census since**

³⁴ Danielle Taylor, “The Context and Evolution of Data Collection for Same-Sex Married Couple Households,” U.S. Census Bureau, July 10, 2020, <https://www.census.gov/library/visualizations/2020/demo/the-context-and-evolution-of-data-collection-for-same-sex-married-couple-households.html>.

³⁵ Thomas Gryn et al., “Married Couple Households Made Up Most of Family Households,” U.S. Census Bureau, May 25, 2023, <https://www.census.gov/library/stories/2023/05/family-households-still-the-majority.html>.

³⁶ Brad Sears et al., “LGBT Adults with Medicaid as Their Primary Source of Health Insurance,” UCLA School of Law Williams Institute, May 2025, <https://williamsinstitute.law.ucla.edu/publications/medicaid-lgbt/>.

³⁷ Bianca Wilson and Lauren Bouton, “LGBTQ Parenting in the US,” UCLA School of Law Williams Institute, July 2024, <https://williamsinstitute.law.ucla.edu/publications/lgbt-parenting-us/>.

³⁸ Hannah Morris et al., “Medical home access among children of parents in same-sex couples,” *Children’s Health Care*, December 3, 2021, <https://www.tandfonline.com/doi/abs/10.1080/02739615.2021.2005599>.

the first one in 1790. The Census Bureau also should not prohibit questions about sexual orientation from appearing on future censuses.

Finally, in direct conflict with 13 U.S.C. § 221, which assesses a fine on any adult over age 18 who “refuses or willfully neglects” to answer “any of the questions on any schedule submitted to him in connection with any census or survey,” the proposed rule would make responding to nearly all questions voluntary, except for biological sex, date of birth, and household relationships. While the rule makes this proposal ostensibly to reduce response burden, voluntary questions would likely lead to higher item nonresponse and increased administrative costs. The Census Bureau’s own research on a voluntary versus mandatory ACS found that implementing a voluntary survey would increase cost and workload considerably, largely due to a decline in response that would necessitate additional follow-up.³⁹ **The Census Bureau should, in accordance with current federal law, keep response to all census questions mandatory.**

Other sources of demographic data (§ 70.4)

The proposed rule clarifies that demographic questions may still be asked “on the American Community Survey or any other surveys that are not used for the enumeration of the population.” However, as further discussed below, the RIA itself concedes that ACS data do not provide the same level of detail as decennial census data and are not available for small geographies with populations below 65,000 and the U.S. Island Areas where the ACS is not administered. **The Census Bureau should retain race and ethnicity questions on the decennial census and should continue to collect demographic data in the ACS and other surveys.**

Regulatory Impact Analysis’ Fatal Flaws

First, the Census Bureau notes, including on the Regulatory Impact Analysis’s (RIA) cover page, that the RIA is only a “Draft” of a “Preliminary Regulatory Impact Analysis,” and not a final, comprehensive, complete, and sound Regulatory Impact Analysis despite the massive impact the NPRM’s changes would have, as discussed above.

Second, the Census Bureau claims that the NPRM would not be economically significant even though it later acknowledges that “Census data also informs decisions about allocating *trillions of dollars* in federal funding to communities across the country—for hospitals, fire departments, schools, roads, and other critical programs and services” (emphasis added). The RIA includes no analysis of this impact on trillions of dollars in federal programs and funding, including the impact of changes to the regular Medicaid FMAP among the states as discussed above. The RIA states that “Census cannot quantify or provide a dollar value for

³⁹ U.S. Census Bureau, “2012 American Community Survey Research and Evaluation Report Memorandum Series #ACS12-RER-32, Projected 2013 Costs of a Voluntary American Community Survey,” November 2, 2012, https://www.census.gov/content/dam/Census/library/working-papers/2012/acs/2012_Griffin_03.pdf.

the expected benefits or costs of the proposed rule” based on the information currently available to the Census Bureau. In fact, the Census Bureau acknowledges that it did not even “attempt to quantify benefits and costs” of the NPRM before issuing it. Instead, it only says that it is seeking public comment “to better understand and potentially qualify impacts.” Absurdly, it then concludes by stating that the Census Bureau “seeks comment on this preliminary analysis of the benefits related to the proposed rule” even though the RIA lacks any analysis of such benefits or costs of the NPRM.

Third, the RIA insists the NPRM is needed to address a failure in current regulations to protect the decennial census from “potential distortions, including from both the application of disclosure avoidance methods (which are necessitated by additional questions) and from reduced response rates, created by inclusion of unnecessary demographic questions.” This language fundamentally misunderstands the confidentiality protections required of the Census Bureau in Title 13, as well as the need for demographic data. Disclosure avoidance methods simply refer to tools for protecting data confidentiality, which is required by Title 13 and not, as suggested, “necessitated by additional questions.” Furthermore, the NPRM does not speak to the technical matter of data confidentiality or which methods would best protect the accuracy of the decennial census count. We also note that noise infusion methods, which add statistical noise to underlying data, were not even applied to apportionment totals in the 2020 census,⁴⁰ and that other methods such as suppression and coarsening, which are explicitly allowed under the recent Department of Commerce order (DAO 216-26), do constitute disclosure avoidance methods. Additionally, as discussed above, the NPRM would dramatically worsen response rates and thereby undermine the accuracy of the decennial census through proposals such as adding a “lawfully present” requirement to residence criteria, excluding from the count individuals without lawful permanent residence status, making response voluntary for most questions, and by not collecting race and ethnicity data.

Finally, in the preamble, the Census Bureau claims that for purposes of data collection and data analysis, the negative impact of the NPRM’s elimination of demographic questions would be mitigated by the continued use of such demographic questions on the American Community Survey (ACS). Yet the RIA wholly undercuts this claim as the Census Bureau acknowledges that the ACS is more limited in several ways including for small geographic areas than the decennial census. It then states that the “accuracy of ACS total-population estimates may decline because the ACS will not have an updated full count of the U.S. population.” It goes on to admit: “Between censuses, the Census Bureau creates intercensal population estimates and revises them when new decennial census data become available. The ACS relies on those intercensal estimates to generate its sampling weights. Without new decennial census data to recalibrate those estimates, the ACS sampling weights, and therefore its population estimates, will become less reliable.” In the RIA, the Census Bureau later admits that for purposes of demographic data like race and ethnicity, compared to the

⁴⁰ U.S. Census Bureau, “Differential Privacy and the 2020 Census,” July 2021, <https://www.census.gov/content/dam/Census/library/factsheets/2021/differential-privacy-and-the-2020-census.pdf>.

decennial census, “there are no other comparably accurate, comprehensive, and reliable sources of this information. Omitting race and ethnicity from the 2030 Census questionnaire would require the development of estimates from a base population derived from outdated and/or less accurate data and would deteriorate the accuracy of the estimation method itself.”

The draft preliminary RIA is thus wholly inadequate and highly flawed, including lacking any quantitative analysis of the impact of the NPRM despite acknowledging that the proposed changes in the NPRM for the decennial census could affect trillions of dollars in federal funding. The draft preliminary RIA also seriously undercuts the preamble’s claims that concerns over privacy and confidentiality justify the NPRM’s elimination of race and ethnicity questions and that other Census Bureau survey data could be sufficiently substituted for the demographic questions that would be eliminated in the decennial Census under the NPRM. As a result, it demonstrates that the Census Bureau’s issuance of the NPRM was *not* the product of reasoned agency decisionmaking. It also shows Census Bureau failed to sufficiently consider the massive effects the NPRM would likely impose across the United States.

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Thank you again for the opportunity to make the above comments to the NPRM. Please contact us at Aubrianna.Osorio@georgetown.edu and Edwin.Park@georgetown.edu if you have any questions or if we can be of further assistance.

Respectfully submitted,

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