

Daniel Sweeny
Deputy General Counsel for Economic, Statistical, and Regulatory Affairs
Office of the General Counsel
U.S. Department of Commerce
Washington, DC 20230

Re: Decennial Census of the Population of Americans; Proposed Residence Criteria and Proposed Regulations for Demographic Questions (Federal Register Notice Docket Number USBC-2026-0628)

Dear Mr. Sweeney:

On behalf of the New Jersey Complete Count Coalition and partners, we submit these comments on the proposed rule “Decennial Census of the Population of Americans; Proposed Residence Criteria and Proposed Regulations for Demographic Questions” (FDMS Docket Number USBC-2026-0628, published September 10, 2026). We strongly oppose the proposed rule changes to the residence criteria and demographic items for the 2030 Census. We urge the Department to withdraw the rule in its entirety.

For New Jersey, the consequences of the proposed rule would be significant and far-reaching. We are the most densely populated state in the nation, where roughly one in four New Jerseyans was born outside the United States. Immigrant residents live in every one of our 21 counties. They work in our hospitals, warehouses, farms, and small businesses, pay state and local taxes, and send their children to our public schools. Between July 1, 2024, and July 1, 2025, New Jersey’s population increased by 41,861 people, driven largely by foreign-born residents.¹ In 2023 alone, the state received more than \$65.6 billion in census-guided federal funding for schools, health care, housing, transportation, and other essential services—a figure that would be inadequate now given our surging population growth.² A census that excludes or undercounts immigrant residents does not make them disappear. It leaves the schools, clinics, roads, and transit systems that every New Jerseyan shares underfunded for a decade. It threatens our congressional representation, and it corrupts the data our Apportionment Commission and Congressional Redistricting Commission rely on to draw fair districts.

¹ U.S. Census Bureau. (2026, January 27). U.S. Population Growth Slows Due to Historic Decline in Net International Migration. U.S. Department of Commerce.

<https://www.census.gov/newsroom/press-releases/2026/population-growth-slows.html>

² Project On Government Oversight (POGO), Census Matters: New Jersey Fact Sheet (2025), <https://docs.pogo.org/report/2025/census-matters/2025-Census-Matters-Fact-Sheet-New-Jersey.pdf>

We are extremely concerned that the proposed residence criteria and changes to demographic questions would undermine the accuracy, integrity, and usefulness of census data. We are particularly concerned about the following issues:

1. Excluding noncitizens without lawful permanent residence from the apportionment count is unconstitutional. The Fourteenth Amendment requires apportionment based on "the whole number of persons in each State." It does not permit the Department to decide which residents count as persons. The Constitution, federal statute, and more than two centuries of practice all require that every person living in the United States be counted, regardless of immigration status. The harm would also extend far beyond the people the rule excludes. Many New Jersey households include members with different immigration statuses. A census that screens residents for legal status will deter whole households from responding, citizens included. The proposed rule also exempts residence-related questions from Part 70's limits, which opens the door to legal-status inquiries on the census form itself. Research consistently shows that such questions suppress participation. Hard-to-count neighborhoods in Newark, Paterson, Elizabeth, Passaic, Union City, and communities across the state, many already undercounted in 2020, would be the most impacted.

2. Redefining "usual residence" would cause people to be missed or counted in the wrong place. The rule would tie residence to tax records and "lawful" presence rather than to where people actually live. It would also replace the long-standing April 1 Census Day with a three-month enumeration period running from January 3 to April 1, assigning each person to the place where they spend the most days during that window. For New Jersey, that design is especially damaging. Many New Jerseyans, particularly older residents and retirees, spend the winter months in Florida, the Carolinas, or other warmer states, then return home and live in New Jersey for the rest of the year. Under this rule, a resident who lives in New Jersey for eight or nine months, votes here, pays property taxes here, and relies on New Jersey's hospitals, roads, emergency services, and senior programs could be counted in another state simply because the enumeration window overlaps with their time away. New Jersey would continue to carry the full cost of serving these residents while losing the federal funding and representation tied to them. That shift would last for a decade. The new window is untested and unprecedented, and its risks go far beyond seasonal residents; it also raises the likelihood that renters, students, seasonal workers, foster youth, shelter residents, people experiencing homelessness, and workers in temporary housing will be missed or assigned to the wrong place. A residence standard based on where people spend a single winter, rather than where they actually live, cannot produce an accurate count.

3. Eliminating race and ethnicity data is unprecedented and would cripple civil rights enforcement. Every decennial census since 1790 has collected race data in some form. This data is the benchmark for nearly every federal survey and population study in the country. It is also the evidentiary foundation for civil rights enforcement: used to identify discrimination, to determine whether electoral systems dilute the voting strength of communities of color, to evaluate redistricting plans, and to enforce language-access protections under the Voting Rights Act. New Jersey is one of the most linguistically and culturally diverse states in the nation, with large Latino, Asian American, Black, and Middle Eastern and North African communities. Our state depends on this data to protect their rights. Eliminating race and ethnicity data questions on the 2030 Census would not eliminate discrimination; it would make discrimination harder to detect, prove, and remedy. Local governments, nonprofits, and businesses also rely on these data to target services and investment efficiently.

4. A permanent ban on sexual orientation questions is baseless and bypasses the Bureau's own process. The decennial census does not currently ask about sexual orientation. This rule would nonetheless bar the Bureau from ever adding such a question, regardless of future research or data needs. It also raises serious questions about the continued collection and publication of same-sex couple data. Decisions about demographic questions should come from rigorous research and testing, consultation with federal agencies, and engagement with experts and affected communities, not from a regulatory prohibition. When the government prevents itself from measuring a population, it loses the ability to identify disparities, and evaluate whether legal protections are working.

5. The rule fails to end prison gerrymandering. Counting incarcerated people at the facilities where they are temporarily held, rather than in their home communities, artificially shifts population and political power away from those communities. The proposed rule does not fix this problem, nor does it explain how the new three-month enumeration period would apply to incarcerated people. New Jersey has already ended prison gerrymandering in its own redistricting. The federal census should count incarcerated people at their home addresses, where they maintain community ties and where most will return.

Recommendations. We call on the Department of Commerce and the Census Bureau to:

1. **Extend the comment period to December 10th, 2026.**
2. **Count every person residing in the United States in the 2030 Census, without regard to immigration status.** Excluding noncitizens from census apportionment data violates the constitution and established legal precedent. It

would suppress the count of many communities, effectively erasing them from critical datasets and depriving them of resources and congressional representation.

3. **Withdraw the proposed residence criteria**, including the tax-record and "lawful" residence standards and the three-month enumeration period.
4. **Continue collecting race and ethnicity data and implement the 2024 OMB SPD 15 standards.** Census race and ethnicity data are essential for important research across many sectors, for upholding civil rights, and for growing the economy. Extensive Census Bureau research and engagement with expert stakeholders shows that implementing the modernized 2024 OMB SPD 15 standards for race and ethnicity data collection will yield data that more accurately represent the nation's increasingly diverse population.
5. **Remove the prohibition on future sexual orientation questions.** Proposed changes to demographic items should be based on research and guided by a deliberative and transparent process, including extensive stakeholder consultation.
6. **Count incarcerated people in their home communities.** This will yield more accurate census data and ensure that communities receive the congressional representation to which they are entitled.

We appreciate your consideration of these comments.

Sincerely,

League of Women Voters of New Jersey
New Jersey Institute for Social Justice
AAPI-New Jersey
ACLU-New Jersey
Wind of the Spirit Immigrant Resource Center
New Jersey Alliance for Immigrant Justice
Asian American Legal Defense and Education Fund
New Jersey Citizen Action Education Fund
New Jersey Policy Perspective
Garden State Equality
Chinese American Community of Fort Lee
Third Mountain Action
South Asians' International Volunteer Association
New Jersey Consortium for Immigrant Children
New Jersey Religious Action Center of Reform Judaism

Black Lives Matter Paterson
New Jersey Working Families Alliance
Laundry Workers Center
New Jersey Coalition To End Homelessness
New Jersey Future
Salvation and Social Justice
Advocates for Children of New Jersey
ATNJ Education Fund
Make the Road New Jersey
CAIR-New Jersey
Latino Action Network
Latino Action Network Foundation