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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)

The Movement Advancement Project, Human Rights Campaign, Transgender Law Center and the undersigned 95 organizations write to express concerns regarding the Notice of Proposed Rulemaking ("the Proposed Rule") by the U.S. Census Bureau ("the Bureau") published on September 10, 2026, titled "*Decennial Census of the Population of Americans; Proposed Residence Criteria and Proposed Regulations for Demographic Questions"* (Docket No. USBC-2026-0628).[1] We strongly oppose the Proposed Rule's changes to the residence criteria and demographic items for the 2030 Decennial Census.

In particular, we oppose changes that would exclude immigrant populations from the Decennial Census, eliminate questions about race and ethnicity, and prohibit sexual orientation measures on the Decennial Census. If implemented, we believe the Proposed Rule would result in a Decennial Census that fails to ensure a complete and accurate count of the population, produces insufficient and unreliable demographic data, and decreases public trust. For the reasons discussed below, we urge the Bureau to withdraw the Proposed Rule in its entirety.

I. The Importance of a Fair and Accurate Decennial Census

The Decennial Census is one of the federal government's most consequential data collections. The Constitution requires an "actual Enumeration" of the population every ten years, and the Fourteenth Amendment provides that representation in the House of Representatives is apportioned among the states according to the "whole number of persons in each State." Consistent with that mandate, the Bureau has long described its task as counting everyone "once,

[1] Decennial Census of the Population of Americans; Proposed Residence Criteria and Proposed Regulations for Demographic Questions, 91 Fed. Reg. 57524 (Sept.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.

only once, and in the right place."[2] The Bureau's own 2030 Census Operational Plan[3] identifies a "Complete and Accurate Census" as its first strategic goal.

An accurate Census is essential first and foremost because the Census determines political representation. Decennial Census counts determine the allocation of seats in the U.S. House of Representatives among the states. Federal law also requires the Bureau to provide states with population tabulations used to draw congressional, state legislative, and other electoral districts. An error in the Decennial Census therefore does not disappear when enumeration ends. It can shape political representation for the following decade.

The importance of the Census extends far beyond apportionment. The Bureau itself recognizes that Decennial Census data inform the distribution of trillions of dollars[4] in federal funding each year, including funding for health care, education, infrastructure, nutrition assistance, mental health services, and other programs. Tribal, state, and local governments use Census data to plan services, assess community needs, prepare for disasters, and monitor compliance with voting rights and civil rights laws. Businesses rely on the same data to make decisions about investments, jobs, products, and locations. And Decennial Census results provide the population benchmarks and survey controls that underlie the American Community Survey ("the ACS") and hundreds of other public and private data products. In this sense, the Decennial Census functions as a common denominator for much of the nation's statistical infrastructure.[5]

That role makes both the completeness and the distributional accuracy of the Decennial Census critical. The Census can produce a national population total that appears accurate while nonetheless counting some communities substantially less accurately than others. The 2020 Decennial Census illustrates this distinction. The Bureau found no statistically significant net coverage error for the nation as a whole in 2020, yet its Post Enumeration Survey[6] estimated statistically significant undercounts[7] of 3.3% for the Black population, 4.99% for the Hispanic or

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[2] *See, e.g.*, Ron Jarmin, *Counting Everyone Once, Only Once and in the Right Place,* U.S. Census Bureau Director's Blog (November 2018), https://www.census.gov/newsroom/blogs/director/2018/11/counting_everyoneon.html.
[3] U.S. Census Bureau, *2030 Census Operational Plan* (May 2026), https://www.census.gov/programs-surveys/decennial-census/decade/2030/planning-management/plan/2030-census-operational-plan.html.
[4] U.S. Census Bureau, *Census Bureau Data Guide More Than $2.8 Trillion in Federal Funding in Fiscal Year 2021*, News Releases (June 2023), https://www.census.gov/newsroom/press-releases/2023/decennial-census-federal-funds-distribution.html.
[5] National Academies of Sciences, Engineering, and Medicine, *Modernizing the U.S. Census*. Washington, DC: The National Academies Press, (1995), https://doi.org/10.17226/4805
[6] Shadie Khubba, Krista Heim, and Jinhee Hong*, National Census Coverage Estimates for People in the United States by Demographic Characteristics,* U.S. Census Bureau 2020 Post-Enumeration Survey Estimation Report, PES20-G-01 (March 2022), https://www2.census.gov/programs-surveys/decennial/coverage-measurement/pes/national-census-coverage-estimates-by-demographic-characteristics.pdf.
[7] Eric Jensen and Timothy Kennel, *Who was Undercounted, Overcounted in the 2020 Census?,* U.S. Census Bureau Library America Counts: Stories (March 2022), https://www.census.gov/library/stories/2022/03/who-was-undercounted-overcounted-in-2020-census.html.

Latino population, and 5.64% for the American Indian and Alaska Native population. Young children were also undercounted, while the white population was overcounted.

Those differential errors matter because Census data are used at the community level. People who are missed or otherwise excluded from census counts are not distributed randomly across the country or across demographic groups. When particular populations are disproportionately omitted, the resulting data can misstate where people live, distort the denominators used to measure social and economic conditions, and weaken the information governments and communities use to allocate resources and identify disparities. As the Census Counts campaign has long emphasized, communities that are hardest to count are often the same communities for whom accurate representation and reliable public data are especially consequential.[8]

The usefulness of the Census therefore depends not just on the accuracy of its population count, but also on the demographic information collected alongside it. Population totals answer the question of how many people live in a place. Demographic information helps answer who those residents are and whether institutions and public programs are serving different communities fairly and effectively. Race and ethnicity data, for example, are used in redistricting and Voting Rights Act analysis, civil rights enforcement, public health measurement, program administration, and research.[9] They also provide denominators that allow rates and disparities to be compared rather than relying on raw counts alone. Removing or substantially degrading those data would therefore affect not merely one census data product, but the larger statistical system that relies on the Decennial Census as a benchmark.

Finally, a fair and accurate Census depends on public participation and trust. The Bureau's current operational plan recognizes that maximizing participation across demographic groups requires making it easy for people to be counted, protecting privacy and confidentiality, and producing results that are credible, accurate, and valued.[10] Community organizations, state and local governments, service providers, faith institutions, and other trusted messengers have historically played an important role in reaching populations that may not respond to federal communications alone. Decisions about census methodology and content therefore cannot be evaluated by the Bureau solely by asking whether a change would facially simplify a questionnaire or reduce an immediate operational burden. They must also be evaluated for their effects on participation, differential coverage, data quality, and the usefulness of the resulting Census data.

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[8] *See* Census Counts, *What's at Stake - Fair Representation,* CensusCounts.org (last visited October 1, 2026), https://censuscounts.org/whatsatstake/.
[9] U.S. Census Bureau, *Why We Ask Questions About... Race*, About the ACS (last revised February 2026), https://www.census.gov/acs/www/about/why-we-ask-each-question/race/.
[10] U.S. Census Bureau, *2030 Census Operational Plan* (May 2026), https://www.census.gov/programs-surveys/decennial-census/decade/2030/planning-management/plan/2030-census-operational-plan.html.

These principles provide the appropriate framework for evaluating the Proposed Rule. The relevant question here is not simply whether an individual change can be implemented. Instead, it is whether the combined changes will help the Bureau fulfill its obligation to conduct a complete and accurate enumeration, reduce rather than deepen longstanding undercounts, and preserve the reliable and useful data on which representation, civil rights enforcement, public administration, research, and communities across the country depend. And as discussed further below, this Proposed Rule answers that question in the negative and would worsen, not improve, the Decennial Census and the critical data it provides.

II. The Bureau Did Not Provide Sufficiently Long Period for Public Comment and Review

The Bureau provided only a 30-day public comment period, closing on October 13, 2026, for the Proposed Rule. Although the Bureau has since extended the comment period by two weeks[11], providing additional time for public review and comment, the extended period remains insufficient given the complexity and potentially significant consequences of the Proposed Rule—which would alter the form and content of the Decennial Census in a marked departure from nearly 250 years and 24 censuses—the 30-day period is insufficient. The Proposed Rule's departure from established practice and the gravity of the proposed changes warrant additional time for meaningful public review and comment. State, local, and Tribal governments; businesses; demographers; civil rights and other nonprofit organizations; researchers; legal scholars; and other stakeholders need sufficient time to meaningfully evaluate and respond to the proposed changes.

While we support the recent extension of the public comment period until November 2, 2026, 45 days is still not sufficient for the public to review and provide input on this rule given the scope of the proposed changes and the devastating effect they would have on Decennial Census data. **We urge the Department of Commerce and the Census Bureau to immediately publish a *Federal Register* notice extending the comment period until at least December 10, 2026**, to provide greater opportunity for public review and comment and to facilitate meaningful, transparent, interactive, and informed consultation on the proposed changes.

III. The Proposed Rule Is Unlawful and Will Undermine the Completeness and Accuracy of the Decennial Census

a. The Proposed Rule Is Inconsistent with the Constitutional Requirement to Count the Whole Number of Persons

[11] Decennial Census of the Population of Americans; Proposed Residence Criteria and Proposed Regulations for Demographic Questions; Extension of Comment Period, 91 Fed. Reg. ___ (Oct. 5, 2026), https://www.federalregister.gov/d/2026-20328.

The Proposed Rule would fundamentally change who is counted for purposes of congressional apportionment. Proposed § 60.4 would count foreign citizens only if they are also U.S. citizens or lawful permanent residents as of Census Day. All other foreign citizens would be excluded from the apportionment count, even when they live, work, attend school, raise families, and otherwise make their homes in the United States. The exclusion would encompass undocumented residents as well as many people lawfully present in the United States, including people on student and employment visas and refugees and asylees who have not yet become lawful permanent residents. The Proposed Rule thus replaces the longstanding question of where a person usually lives with a new inquiry into what immigration status that resident holds.

The Proposed Rule's new distinction is inconsistent with the constitutional command governing apportionment. Section 2 of the Fourteenth Amendment requires Representatives to be apportioned according to the "whole number of persons in each State," not the number of citizens, voters, or people holding a particular immigration status. Since its inception, the Bureau has implemented that mandate by counting people where they usually live.[12] In 2020, for example, foreign citizens living in the United States were counted at the residence where they lived and slept most of the time, while foreign citizens who were merely visiting the United States were not counted.[13] Critically, the Bureau itself acknowledges that this rule made no distinction based on whether a resident was lawfully present.

The Proposed Rule would reverse that approach. It argues that a person's immigration status can determine whether that person has a sufficiently lasting connection to the United States to be treated as a usual resident for apportionment. Yet a person's immigration classification does not establish where that person actually lives. An undocumented parent who has lived with their family in the same community for fifteen years is no less a resident of that community because of their immigration status. Nor is a refugee, asylum recipient, student, or worker who lives in a state transformed into a visitor simply because their immigration status is not lawful permanent residence. The congressional inquiry concerns the number of people residing in each state. Immigration status is not a substitute for residence.

The Proposed Rule's approach is especially consequential for lesbian, gay, bisexual, transgender, and queer ("LGBTQ+") communities. Williams Institute research estimates that approximately 1.27 million adult LGBT immigrants live in the United States, including approximately 290,000 undocumented LGBT adults.[14] It also estimates that 128,500 same-sex couples include at least one foreign-born spouse or partner, approximately 94,400 of which are binational couples. More

[12] U.S. Census Bureau, *Historical Perspective*, About Congressional Apportionment (last revised November 2021), https://www.census.gov/topics/public-sector/congressional-apportionment/about/historical-perspective.html.
[13] U.S. Census Bureau. *2020 Census Residency Rules and Criteria.* 2020 Census Memorandum Series (February 2018), https://www.sec.state.ma.us/census2020/img/pdf/2020-Census-Residency-Rules-and-Criteria.pdf.
[14] Shoshana K. Goldberg and Kerith J. Conron, *LGBT Adult Immigrants in the United States,* The Williams Institute, UCLA School of Law (February 2021), https://williamsinstitute.law.ucla.edu/publications/lgbt-immigrants-in-the-us/.

than 18,000 same-sex couples with a foreign-born spouse or partner are raising children. Excluding residents based on immigration status therefore does not simply remove isolated individuals from an abstract population total. It can divide households and communities for representational purposes, counting a U.S. citizen spouse or child while declaring another person who shares the same home and community outside the population that representation is meant to reflect.

LGBTQ+ immigrants also encounter distinctive barriers that make accurate enumeration particularly important. Some have come to the United States after experiencing persecution, discrimination, or violence related to their sexual orientation or gender identity.[15] Others live in mixed-status families or communities where interactions with government institutions may carry heightened risk. A census policy that makes immigration status relevant to whether a person is entitled to be counted therefore has consequences beyond the formal exclusion itself. It may also alter whether people believe that participating in the Decennial Census is safe.

For all these reasons, we oppose the Proposed Rule's exclusion of everyone who is not a U.S. citizen or green card holder from the population count used for congressional apportionment (Proposed § 60.4) and urge the Bureau to withdraw this proposed exclusion and continue counting all persons residing in the United States.

a. The Proposed Rule Would Undermine the Accuracy of the Census as a Whole

Implementing the Proposed Rule would require the Bureau to identify the citizenship or immigration status of millions of people who otherwise meet the traditional residence test. The Proposed Rule identifies administrative records as one mechanism for doing so and expressly contemplates adding a legal-status question to the Decennial Census questionnaire.

The Bureau's own research demonstrates the danger of this approach. Before the 2020 Decennial Census, Bureau researchers warned that adding a citizenship question could reduce self-response, particularly among households likely to include noncitizens.[16] The Bureau then conducted a randomized 2019 Census Test to check that assertion.[17] Its initial analysis found no statistically significant change in aggregate self-response, although even that analysis identified lower response rates in several relevant populations and geographies, including census tracts

[15] Melissa Cruz, *America's Asylum System Must Ensure the Protection of LGBTQ People,* American Immigration Council (March 2019), https://www.americanimmigrationcouncil.org/blog/asylum-protection-lgbtq-people/.
[16] J. David Brown, Misty L. Heggeness, Suzanne M. Dorinski, Lawrence Warren, and Moises Yi, *Predicting the Effect of Adding a Citizenship Question to the 2020 Census* U.S. Census Bureau Center for Economic Studies Working Paper, CES 18-38 (June 2019), https://www2.census.gov/ces/wp/2019/CES-WP-19-18.pdf.
[17] Decennial Statistical Studies Division and American Community Survey Office. *2019 Census Test Report* (Version 1.0, Revised). U.S. Census Bureau (January 2020), https://www.census.gov/programs-surveys/decennial-census/decade/2020/planning-management/plan/testing-activities/2019-census-test/2019-census-test-report.html.

with higher concentrations of concitizens and Hispanic/Latino residents, as well as increased Internet questionnaire breakoffs. The 2019 report itself cautioned that the test did not include nonresponse follow-up and therefore could not measure the effect of the question on the completeness and accuracy of the census overall.

More recent Bureau research demonstrates why reliance on that aggregate finding would be misleading. In 2024, Bureau researchers reanalyzed the 2019 experiment by linking independently constructed administrative records, allowing them to construct household-level (rather than tract-level) measures of citizenship and immigration status that the Bureau's original analysis could not observe.[18] They found substantial differences in citizenship question effects obscured by the national average. Response declined most among households containing noncitizens without Social Security numbers and declined more among households with Latin American-born immigrants than among households with immigrants from other regions. The effects extended beyond whether a household returned the questionnaire—in fact, the citizenship question increased household roster omissions and internet breakoffs and increased the undercount of whole households that contained noncitizens.

Those findings are especially important because Census enumeration occurs at the household level. The harm and chilling effects caused by a citizenship or immigration-status question cannot be neatly confined to people whom the Proposed Rule seeks to exclude. A U.S. citizen child may be omitted because a parent is reluctant to complete the household questionnaire. A mixed-status household may not respond at all. A naturalized citizen may abandon an online questionnaire because answering citizenship questions for other household members feels risky. The 2024 Census research confirms that these concerns translate into measurable data-quality effects.

Administrative records do not solve the underlying problem. The Proposed Rule emphasizes the Bureau's growing access to records from the Departments of Homeland Security, Treasury, Health and Human Services, and State, state and local governments, and commercial sources, along with its expanding data linkage capabilities. Administrative data can, in some instances, be a useful tool for improving census operations. They are not infallible measures of either residence or immigration status. Records may be incomplete, out of date, inconsistent across systems, or difficult to link to the correct Census record.[19] Immigration status can also change

[18] J. David Brown and Misty L. Heggeness, *Citizenship Question Effects on Household Survey Response,* Institute of Labor Economics, IZA Discussion Paper No. 17073 (June 2024), https://docs.iza.org/dp17073.pdf.

[19] J. David Brown, Misty L. Heggeness, Suzanne M. Dorinski, Lawrence Warren, & Moises Yi, *Understanding the Quality of Alternative Citizenship Data Sources for the 2020 Census*, U.S. Census Bureau, Center for Economic Studies, Working Paper CES-18-38R (rev. June 2019), https://www2.census.gov/ces/wp/2018/CES-WP-18-38R.pdf; John M. Abowd, J. David Brown, Lawrence Warren, Moises Yi, Misty L. Heggeness, William R. Bell, Michael B. Hawes, Andrew Keller, Vincent T. Mule Jr., Joseph L. Schafer, & Matthew Spence, *Determination of the 2020 U.S. Citizen Voting Age Population (CVAP) Using Administrative Records and Statistical Methodology: Technical Report*, U.S. Census Bureau, Center for Economic Studies, Working Paper CES-20-33 (Oct. 2020), https://www2.census.gov/ces/wp/2020/CES-WP-20-33.pdf.

over time. A system adequate for administering a particular program does not automatically become sufficiently accurate to decide whether a person is removed from the population used to allocate political representation. We disagree with the Bureau's assertion that its current administrative-records and linkage capability is already accurate and mature enough to bear the weight of determining immigration status for purposes of apportionment, when the Bureau's own recent research and recent practice both show otherwise.

The stakes of such errors are unusually high. Under the Proposed Rule, an incorrect or outdated administrative record would not merely produce an inaccurate characteristic for an individual. It could determine whether that person is included in the state's apportionment population at all. Census would therefore need to confront false classifications, missing records, linkage failures, status changes, and systematic differences in administrative record coverage across communities. Those problems become even more serious if administrative records are combined with a questionnaire that itself reduces participation among the households whose status the Bureau is attempting to determine.

Nor would these effects end with congressional apportionment. An enumeration that produces greater omissions among immigrant and mixed-status households would distort the population data on which redistricting, public health planning, disaster response, education, housing, infrastructure, statistical surveys, and other public functions depend. Even people counted under the Proposed Rule can become less visible in census data when members of their households or communities do not respond.

The Bureau cannot treat excluding noncitizens from apportionment and obtaining the information necessary to implement that exclusion as separate technical exercises. Creating a census in which people's immigration status determines whether they are counted changes the relationship between immigrant communities and the Census itself. Adding a citizenship or legal status question compounds that harm by introducing a question the Bureau's own research shows can increase omissions and differential undercount. The result would be a census less complete, less accurate, and less capable of fulfilling the constitutional requirement to enumerate the whole number of persons in each state.

For all these reasons, we urge the Bureau not to add a citizenship or immigration status question to the Decennial Census questionnaire, particularly where the Bureau's own research demonstrates the potential for differential response and undercount.

b. The Proposed Rule Fails to Correctly Count Incarcerated People

The Proposed Rule fails to accurately count incarcerated people at their usual residence. Treating a prison, jail, or detention center as a person's "usual residence" reflects a fundamental

misunderstanding of the nature of incarceration. People in jails are often away from home for only days or weeks. Even among people serving longer prison sentences, the facility where someone happens to be on Census Day is rarely a stable residence: nationally, 75 percent of people serve time in more than one prison facility, and 12 percent serve time in at least five facilities before returning home.[20] Most incarcerated people ultimately return to their home communities. Their home—not the particular facility to which they may be temporarily transferred—is therefore the only stable address that reflects their continuing residence and community ties. This is especially difficult to reconcile with the Proposed Rule's new definition of "usual residence" based on where a person spends the greatest number of days between January 3 and April 1: a temporary correctional placement during a three-month period does not establish that a facility is a person's usual residence.

Counting incarcerated people at correctional facilities also distorts the geographic distribution of the population and disproportionately affects communities that experience higher rates of incarceration. Prisons are often located far from the communities from which incarcerated people come, meaning facility-based enumeration shifts population away from their home communities and toward the places where prisons happen to be located. This contributes to "prison gerrymandering," giving communities that host prisons greater representation while diluting the representation of the communities from which incarcerated people come.

The consequences are particularly significant for communities overrepresented in the criminal legal system, including LGBTQ+ communities. Research has found that LGB people are incarcerated at a rate over three times that of the total adult population,[21] 16% of transgender and gender non-conforming people have been incarcerated at some point in their lives compared with 6.6% of the general U.S. population,[22] and that people of color make up a disproportionate share of incarcerated LGBTQ+ people relative to their share of the LGBTQ+ population.[23] Counting incarcerated people at their home addresses would not exclude them from the Census; it would provide a more accurate representation of the communities in which they actually reside and to which they generally return.

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[20] Prison Policy Initiative, *Counting Incarcerated People at Home in the Census, A Prison Policy Initiative Fact Sheet* (May 2024), https://www.prisonersofthecensus.org/factsheets/national/length_stay.pdf.

[21] Ilan H. Meyer PhD, Andrew R. Flores PhD, Lara Stemple JD, Adam P. Romero JD, Bianca D. M. Wilson PhD, and Jody L. Herman PhD, *Incarceration Rates and Traits of Sexual Minorities in the United States: National Inmate Survey, 2011–2012*, American Journal of Public Health (January 2017), https://ajph.aphapublications.org/doi/abs/10.2105/AJPH.2016.303576?journalCode=ajph.

[22] Jane Hereth, *Overrepresentation of People Who Identify as LGBTQ+ in the Criminal Legal System: Research Report*, Safety + Justice Challenge (June 2022), https://safetyandjusticechallenge.org/resources/overrepresentation-of-people-who-identify-as-lgbtq-in-the-criminal-legal-system/.

[23] Movement Advancement Project and Center for American Progress, *Unjust: How the Broken Criminal Justice System Fails LGBT People of Color* (August 2016), https://www.mapresearch.org/file/lgbt-criminal-justice-poc.pdf.

Finally, the Proposed Rule does not establish a workable standard for determining when a person is "confined" for purposes of Proposed § 60.9. The provision simply states: "Persons confined at correctional or detention facilities, including juvenile facilities. Counted at the facility." It does not specify whether "confined" means confined on Census Day, at any point during the enumeration period, or for some portion of that period. Whatever interpretation the Bureau adopts, a categorical rule assigning an incarcerated person to the facility where they happen to be located cannot accurately determine their usual residence, particularly given the frequency with which incarcerated people move between facilities and ultimately return to their home communities. The Bureau should instead have established a residence standard that recognizes incarcerated people's continuing ties to their home communities and explain, based on evidence, why a temporary correctional placement should be treated as their usual residence.

For all these reasons, we urge the Bureau to halt the practice of prison gerrymandering and instead commit to counting incarcerated individuals in their home communities. Doing so will yield more accurate census data and ensure that communities receive the Congressional representation to which they are entitled.

IV. The Proposed Rule Would Undermine the Statistical Foundation for Reliable Race and Ethnicity Data

The Bureau's Proposed § 70.2(a) would prohibit the Bureau from asking about race or ethnicity on the Decennial Census questionnaire or any other questionnaire used to enumerate the population.[24] This would break with more than two centuries of Census practice. The Bureau has collected information about race in every Decennial Census since the first census in 1790, and has comprehensively identified the Hispanic population since 1970. Although the categories and methods have appropriately changed over time, the federal government has never before attempted to conduct a modern Decennial Census without collecting race information from the population it is enumerating.

The harm would reach far beyond the loss of a set of Decennial Census tables. Race and ethnicity data from the Decennial Census are part of the statistical foundation on which other public and private data collections are built. Surveys do not simply count the people who happen to respond and assume those respondents perfectly represent the population. Researchers weight survey responses against independent population benchmarks to compensate for differences in sampling, nonresponse, and coverage.[25] Race and ethnicity are among the core characteristics used for that work.

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[24] Proposed 15 C.F.R. § 70.2(a).
[25] National Academies of Sciences, Engineering, and Medicine, *Modernizing the U.S. Census*. Washington, DC: The National Academies Press, (1995), https://doi.org/10.17226/4805

The Bureau's own methodology demonstrates this dependence. The ACS uses independent population controls from the Population Estimates Program—which are built off of Decennial Census data—by race, Hispanic origin, age, and sex. The Bureau explains that these controls make ACS data more accurate and help correct for demographic groups that are over- or underrepresented in survey responses. The Current Population Survey similarly relies on independent population controls—themselves anchored in Decennial Census data—by race and Hispanic origin.

The private sector relies on the same statistical infrastructure. The Insights Association, representing the market research and data analytics industry, has explained that census race and ethnicity data are a key benchmark against which representative studies are designed, weighted, and validated.[26] Researchers use Census benchmarks to determine whether survey samples reflect the actual population of the nation, a state, a metropolitan area, or a local community. Without an authoritative universal benchmark, researchers lose an independent yardstick for knowing whether a sample over- or underrepresents a racial or ethnic group.

The Proposed Rule's assurance that the Bureau could continue asking about race and ethnicity on the ACS and other surveys therefore does not solve the underlying statistical problem. A sample survey cannot fully replace the population benchmark against which that same survey is weighted and evaluated. Administrative records also cannot provide a substitute for direct decennial collection. Administrative systems exist to administer particular programs and transactions. Their race and ethnicity information may be missing, outdated, inconsistently defined, collected from only subsets of the population, limited to broad rather than disaggregated categories, or assigned by a program administrator rather than self-reported by the individual. More fundamentally, using a collection of incomplete administrative sources to estimate the racial and ethnic composition of the population is not equivalent to directly asking the entire population and then using that universal enumeration to evaluate subsequent estimates.

The damage would compound over time. Existing surveys and population estimates would not become useless or infeasible on a specific date in 2030. They would continue to draw, for some period, on information derived from the 2020 Decennial Census. But without a new decennial benchmark in 2030, those estimates would increasingly depend on older data, administrative records, modeling, and surveys that themselves require weighting. Errors in the base would then expand through the statistical system rather than being corrected against a new universal

[26] Insights Association, *IA Letter to Commerce Dept on race/ethnicity data elimination proposal,* (August 2026), https://www.insightsassociation.org/Portals/INSIGHTS/xBlog/uploads/2026/8/25/IA-SecLutnick-Census-RaceEthnicityQuestion-8-25-26.pdf.

enumeration. As DataIndex has warned, removing decennial race and ethnicity data would materially degrade the weighting of public and private surveys across the country.[27]

That is not an abstract methodological concern. Reliable race and ethnicity data make it possible to see who is benefiting from public policy and who is being left behind. They allow governments and communities to measure disparities in health, housing, education, employment, environmental exposure, disaster recovery, lending, transportation, and access to public services. The Bureau itself identifies Hispanic-origin data as relevant to Voting Rights Act enforcement, equal employment protections, health services access, and other federal responsibilities.[28] Without reliable denominators, a government may still know how many people received a benefit, were denied a loan, contracted a disease, lost a home, or were arrested. It becomes substantially harder to determine whether those outcomes fall disproportionately on particular communities.

For LGBTQ+ people, such a loss would be especially consequential because race, ethnicity, sexual orientation, and gender identity do not operate independently in people's lives. Nearly half of LGBT adults in the United States are people of color.[29] Williams Institute research has found significant racial differences in economic security, health, insurance coverage, discrimination, and other measures of well-being among LGBT people.[30] For example, its research found that 47 percent of LGBT people of color lived in low-income households, compared with 36 percent of white LGBT adults, and that LGBT people of color reported discrimination in the prior year at higher rates than white LGBT adults.

Those differences cannot be understood if race and ethnicity disappear from the statistical foundation used to measure them. Researchers rely on the same census-derived benchmarks to assess whether surveys of the LGBTQ+ population are representative, meaning LGBTQ+-specific data is itself dependent on reliable race and ethnicity data. Aggregate data about LGBTQ+ people can obscure profound disparities between LGBTQ+ people of color and white LGBTQ+ people. Removing reliable race and ethnicity benchmarks does not make government data "neutral." It makes racial inequality—including within the LGBTQ+ population—harder to see, harder to measure, and harder to remedy.

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[27] Meeta Anand, Beth Jarosz, and Chris Dick, *Why Seemingly Arcane Process Changes to the Decennial Census Would be Catastrophic for All Americans,* DataIndex.us (September 2026), https://dataindex.us/newsletter/article/2feab594-edae-4a10-8844-60f5bf1d4b24.

[28] U.S. Census Bureau, *Why We Ask Questions About... Hispanic or Latino Origin*, About the ACS (last revised February 2026), https://www.census.gov/acs/www/about/why-we-ask-each-question/ethnicity/.

[29] Bianca D.M Wilson, Lauren J.A. Bouton, and Christy Mallory, *Racial Differences Among LGBT Adults in the US,* The Williams Institute, UCLA School of Law (January 2022), https://williamsinstitute.law.ucla.edu/publications/racial-differences-lgbt/.

[30] *Id.*

a. Eliminating Decennial Race and Ethnicity Data Would Undermine Voting Rights Enforcement

The consequences of this proposed change are especially acute for voting rights. For decades, the Bureau's P.L. 94-171 redistricting data have provided states and the public with race, Hispanic origin, and voting age population data at the census block level. Those data are not incidental to the Redistricting Data Program. Since the program began, the Bureau has provided race information, and since 1990 it has provided voting-age population tabulated by race and Hispanic origin at the request of state legislatures and the U.S. Department of Justice.

The Supreme Court's 2026 decision in *Louisiana v. Callais*[31] makes the loss of these data more serious. *Callais* held that Section 2 vote-dilution liability is imposed only when there is a"strong inference" that a state intentionally discriminated against minority voters by drawing districts that afford those minority voters less electoral opportunity because of their race. The Court in *Callais* also required plaintiffs claiming racially polarized voting to provide an analysis that controls for party affiliation—a task commentators have called nearly impossible in jurisdictions where racial groups vote heavily along party lines, precisely the circumstance the Voting Rights Act was designed to address—and placed substantially less weight on historical discrimination and generalized evidence of continuing disparities.

Under this new legal standard, the importance of high-quality contemporary evidence on race and ethnicity is increased. Yet the Proposed Rule would eliminate the universal, block-level race and ethnicity data that states, courts, researchers, and voting rights plaintiffs have long used to understand the racial composition of districts and evaluate proposed maps. It is difficult to reconcile a legal regime demanding increasingly specific evidence of racial discrimination in voting with an administrative policy that deliberately makes reliable racial evidence more difficult to produce.

b. The Department of Commerce's Burden and Privacy Rationales Do Not Justify Eliminating Race and Ethnicity Data

The Proposed Rule contends that eliminating race and ethnicity questions would reduce respondent burden and disclosure risk. Neither rationale supports the sweeping prohibition the Department of Commerce ("the DOC") proposes.

First, the DOC provides no evidence that the marginal burden of answering the race and ethnicity questions is substantial enough to justify destroying a statistical benchmark used throughout government, academia, civil society, and the private sector. The Proposed Rule relies principally

[31] 608 U.S. 85, 146 S. Ct. 1131, 224 L. Ed. 2d 604 (2026), judgment entered, 146 S. Ct. 1111, 224 L. Ed. 2d 700 (2026), https://www.supremecourt.gov/opinions/25pdf/24-109_21o3.pdf.

on the general proposition that longer questionnaires can depress response rates. Yet it does not identify any evidence showing that eliminating these particular longstanding questions would meaningfully improve census response, much less any evidence comparing any predicted improvement with the enormous loss in data quality and utility that would result. In fact, the Bureau is asking the public itself for information about the amount of burden the proposal might reduce rather than presenting a developed estimate in support of its proposal.

Second, the DOC's disclosure risk rationale cannot be divorced from its own recent decision to sharply restrict the methods available to manage that risk. In 2026, the DOC issued DAO 216-26,[32] which prohibits the Bureau from using noise infusion for future statistical products. The Bureau has acknowledged that, under that Order, it must rely on coarsening and suppression to protect respondent privacy and that those approaches may reduce the amount and detail of data available, particularly for small populations and small geographic areas.

The Proposed Rule now cites disclosure risk and DAO 216-26 itself as support for eliminating race and ethnicity questions from the Decennial Census. The DOC should not be manufacturing a methodological constraint and then invoking the consequences of that constraint as justification for abandoning essential data. The appropriate response to confidentiality risk is to use scientifically sound disclosure avoidance methods that protect both respondent privacy and the usefulness of public statistics. The appropriate response is not to stop collecting information that communities, governments, researchers, businesses, and civil rights institutions need to understand the country.

For all these reasons, alongside our call to the Bureau to rescind the Proposed Rule, we urge the DOC to rescind DAO 216-26 and restore the Bureau's ability to select disclosure avoidance methods through a transparent, evidence-based statistical process that weights confidentiality, accuracy, and data utility. At minimum, the DOC cannot reasonably rely on DAO 216-26 as a justification for removing race and ethnicity from the Decennial Census unless and until it has publicly demonstrated that no available confidentiality protection method can permit those data to be collected and released with appropriate privacy protections.

c. The Bureau Should Implement Modernized Standards for Race and Ethnicity Data on the Decennial Census, Not Omit Such Questions Altogether

The Bureau should withdraw the Proposed Rule in its entirety—including Proposed § 70.2—and preserve direct collection of race and ethnicity data on the 2030 Decennial Census. Extensive Census Bureau research, testing, and engagement with expert stakeholders have established that implementing the modernized 2024 Statistical Policy Directive 15 ("SPD 15") standards will

[32] Office of Privacy and Open Government. *Disclosure Avoidance for Statistical Products,* DAO 216-26 (June 2026), https://www.commerce.gov/opog/disclosure-avoidance-statistical-products.

produce a more accurate and comprehensive portrait of the nation's increasingly diverse population.[33] The combined race and ethnicity question, with a distinct Middle Eastern/North African (MENA) category and detailed checkboxes and write-in spaces, will better capture how people identify and provide more useful information about the nation's racial and ethnic composition. The modernized question is expected to reduce the proportion of Latino individuals classified as "Some Other Race," enable the federal government to produce data about MENA communities for the first time, and provide more nuanced information about racial and ethnic subgroups.[34] These improvements are particularly important for civil rights enforcement and for understanding and addressing disparities within and across communities.

For all these reasons, we urge the Bureau to retain race and ethnicity questions on the Decennial Census and move forward with implementing the 2024 SPD 15 standards in the 2030 Decennial Census.

V. The Proposed Rule Should Not Preclude Future Sexual Orientation Measurement or Restrict Data on Same-Sex Couple Households

a. The Proposed Rule Should Not Foreclose Sexual Orientation Questions on Future Decennial Censuses

The Bureau's Proposed § 70.2(a) would prohibit the inclusion of a question about sexual orientation on the Decennial Census questionnaire or any questionnaire used for the enumeration of the population. The Decennial Census does not currently include an explicit, standalone question about sexual orientation. Accordingly, the Proposed Rule would categorically preclude the Bureau from collecting sexual orientation data on future Decennial Censuses, regardless of evolving research or data needs. This attempt is baseless and runs counter to the Bureau's usual, deliberative process for making decisions about demographic data collection. The Bureau should preserve its discretion to consider adoption of a sexual orientation question in the future if new research or data needs emerge, with decisions about demographic content guided by a deliberative process grounded in rigorous research, testing, and stakeholder input.

Further, this Proposed Rule is an inappropriate vehicle for making these demographic content changes regarding sexual orientation, as well as race and ethnicity. Under 13 U.S.C. § 141(f), Congress serves an important oversight role in determining the content that appears on the

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[33] Office of Management and Budget, *Revisions to OMB's Statistical Policy Directive No. 15: Standards for maintaining, collecting, and presenting federal data on race and ethnicity,* 89 Fed. Reg. 22182, (March 2024), https://www.federalregister.gov/documents/2024/03/29/2024-06469/revisions-to-ombs-statistical-policy-directive-no-15-standards-for-maintaining-collecting-and; Nicholas A. Jones and Michael Bentley (Presenters), *2015 National Content Test: Race and Ethnicity Analysis Report* U.S. Census Bureau, (February 2017), https://www.census.gov/content/dam/Census/newsroom/press-kits/2017/2015nct_presentation_jones.pdf.

[34] The Leadership Conference on Civil and Human Rights, *Fact Sheet: Why do we need a combined race and ethnicity question,* (April 2023), https://civilrights.org/wp-content/uploads/2023/04/FAQCombinedQuestion-1.pdf.

Decennial Census. The statute requires the Secretary of Commerce to submit subjects planned for the Decennial Census no later than 3 years before the Decennial Census date (i.e., April 1, 2027) and the questions planned for the Decennial Census no later than 2 years before the census date (i.e., by April 1 of 2028). Consistent with longstanding Census Bureau practice, the same subjects-and-questions review process has also been applied to ACS content. Making these content changes through this Proposed Rule, rather than through the congressional submission process Congress established in § 141(f), would undermine Congress's oversight role.

i. The Bureau Has Previously Considered Collecting Sexual Orientation Data In Response to Federal Data Needs

The Census Bureau has previously considered adding both sexual orientation and gender identity as subjects on the ACS and 2020 Decennial Census.[35] These efforts were initiated in response to formal requests submitted by multiple federal agencies expressing needs for the data, for example, for the purposes of enforcing civil rights laws such as Title VII of the Civil Rights Act of 1964, the Violence Against Women Reauthorization Act, the Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act, and the Hate Crime Statistics Act.[36] Moreover, as pointed out by the National Academies of Science, Engineering and Medicine, lack of these demographic data on the Decennial Census or ACS means "there is no 'gold standard' against which data collections can perform weighting adjustments or assess data quality and nonresponse bias for LGBTQ+ populations."[37] Findings based on the Bureau's qualitative and quantitative research could have provided key findings to inform future decision-making about adding a sexual orientation measure to the Decennial Census. For example, information about sexual orientation on the Decennial Census could potentially be used to identify patterns of discrimination and disparate impact, establish baseline population estimates to inform weighting, better understand the characteristics and needs of the growing LGB population,[38] and classify communities of interest for the purposes of redistricting.[39] However, these efforts were halted and litigation is now underway regarding access to the results of the Bureau's ACS research.[40]

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[35] Senator Tom Carper and Senator Kamala D. Harris, *Letter to John H. Thompson, Director, United States Census Bureau*, (May 2017), https://mapresearch.org/wp-content/uploads/2026/09/2017-05-22-Carper-Harris-Letter-to-Census-Bureau-re-New-Subjects-press.pdf.

[36] Kristen Clarke, Assistant Attorney General, *Letter from DOJ to Census Bureau requesting sexual orientation and gender identity questions on the American Community Survey.* (December 2022), https://www.documentcloud.org/documents/23891611-dec-9-2022-letter-from-doj-to-census-bureau-requesting-sexual-orientation-and-gender-identity-questions-on-the-american-community-survey/.

[37] National Academies of Sciences, Engineering, and Medicine, *Measuring Sex, Gender Identity, and Sexual Orientation* 41 (2022), https://doi.org/10.17226/26424.

[38] Gallup, *What Percentage of Americans are LGBTQ+?,* The Short Answer (March 2022, updated June 2026), https://news.gallup.com/poll/332522/percentage-americans-lgbt.aspx.

[39] LGBTQ+ Victory Fund, *We Belong Together: The Campaign to Include LGBTQ Americans in Redistricting*, (2021-2022), https://victoryfund.org/together/.

[40] Democracy Forward. *Lawsuit Filed to compel Census Bureau to Release Critical LGBTQ+ Data,* Press Release (September 2025), https://democracyforward.org/news/press-releases/sogi-data-foia/.

ii. The Proposed Rule's Prohibition Is Not Supported by Sufficient Evidence or Reasoning

The Proposed Rule fails to provide sufficient evidence, legal authority, or reasoning for its categorical prohibition on questions that would generate sexual orientation data. This omission by the Bureau falls short of the Administrative Procedure Act's requirement for reasoned decision-making for agency actions like the Proposed Rule. Indeed, the Bureau provides no discussion of its authority under existing law and precedent to issue such a prohibition across any of the data categories discussed in the Proposed Rule. The Bureau cannot simply cite to the issuing of an executive order "ordering the termination of so-called 'diversity, equity, inclusion, and accessibility' programs and activities in the Federal government," to support such a meaningful, substantive change. In doing so, the Proposed Rule ignores that it is the role of Congress, not the Bureau or any other components of the Executive Branch, to determine what questions and question topics appear on the Decennial Census and ACS.

The Proposed Rule also asserts that sexual orientation data reflects "reduced need or usefulness." This framing implies a decline from some prior baseline. However, sexual orientation has never been included as a standalone question on the Decennial Census, so there is no prior practice for its usefulness to have declined from. The Proposed Rule also asserts that excluding sexual orientation from future censuses would "reduce response burden as well as the risk of disclosure." On response burden, the rule relies on citations that do not specifically apply to sexual orientation, while ignoring substantial evidence—including the Bureau's own research—showing that nonresponse to sexual orientation questions is consistently low and comparable to or better than routinely collected items like race and family income.[41]

Additionally, the Bureau cannot justify this prohibition simply by alluding to vague concerns regarding potential disclosure risk. The Bureau is required by Title 13 of the U.S. Code to keep personal information confidential and has used advanced disclosure avoidance techniques to protect the privacy of each person—even in the face of modern threats—while still making high-quality data available. On disclosure risk, the Proposed Rule's rationale is therefore circular: it relies on DAO 216-26,[42] an order the DOC itself issued to eliminate the modern

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[41] *See* Michael Bentley and Sarah Konya, *2020 Census Operational Quality Metrics: Item Nonresponse Rates,* U.S. Census Bureau, (August 2021), https://www.census.gov/newsroom/blogs/random-samplings/2021/08/2020-census-operational-quality-metrics-item-nonresponse-rates.html (characterizing item nonresponse under 5.95% as 'low'); Nancy Bates, Yazmin A. Garcia Trejo, and Monica Vines, *Are Sexual Minorities Hard-to-Survey? Insights from the 2020 Census Barriers, Attitudes, and Motivators Study (CBAMS) Survey*, 35 J. Official Stats. 709 (2019), https://journals.sagepub.com/doi/abs/10.2478/jos-2019-0030 (analyzing performance of the sexual orientation item on the Bureau's Household Pulse Survey); National Academies of Sciences, Engineering, and Medicine, Measuring Sex, Gender Identity, and Sexual Orientation, ch. 5 (2022), https://doi.org/10.17226/26424.

[42] Office of Privacy and Open Government. *Disclosure Avoidance for Statistical Products,* DAO 216-26 (June 2026),https://www.commerce.gov/opog/disclosure-avoidance-statistical-products.

privacy-protection methods previously used to safeguard data on small populations,[43] and then cites the resulting disclosure risk from that Order as justification for ceasing collection altogether.[44] As stated above, we urge the DOC to rescind DAO 216-26 and restore the Bureau's ability to select disclosure avoidance methods through a transparent, evidence-based statistical process that weights confidentiality, accuracy, and data utility. Questions about the utility, response burden, and privacy implications of adding sexual orientation measures to the Decennial Census are important to consider, but they should be examined through rigorous research and testing, not through a blanket prohibition.

iii. Future Demographic Content Decisions Should Be Based on Research, Testing, and Stakeholder Input

Rather than preemptively prohibiting sexual orientation data collection, decisions about adding new demographic questions to future censuses should be guided by a deliberative process. That should include rigorous research and testing, consultation with federal agencies about their legal and programmatic needs for the data—including at small geographic levels—and meaningful engagement with subject-matter experts and communities. Such a process should also demonstrate transparency about what content changes are being considered, who requested them, what legal or statistical purposes they are intended to serve, what testing has been conducted, and what Census subject-matter experts recommend. It is critical that the Bureau engage in a rigorous, transparent, and evidence-based process for making decisions about demographic data collection on the Decennial Census.

For all these reasons, we oppose the Proposed Rule's prohibition of a sexual orientation question on future censuses (Proposed § 70.2(a)) and urge the Bureau to remove this provision from any final rule it may issue.

b. The Bureau Should Not restrict the Collection or Publication of Decennial Census Data on Same-Sex Couples

The Proposed Rule's prohibition on sexual orientation data on the Decennial Census raises important questions about the future collection and reporting of data on same-sex couples. Although the Decennial Census does not include a standalone question on sexual orientation, same-sex couples have been counted through the household relationship question for decades. While these data are not a substitute for sexual orientation measures, they provide important information about a distinct population of households and families.

[43] Beth Jarosz, Jae June Lee, and Chris Dick, *How Will Methodology Restrictions Affect Demographic and Economic Data,* Dataindex.us (August 2026), https://dataindex.us/newsletter/article/a804d4db-2f99-4037-a222-894cc5c609e4.
[44] *Id.*

The Proposed Rule states that it will permit questions about household relationships to appear on the Decennial Census for purposes of verifying the population count, but does not clarify whether the proposed prohibition on sexual orientation data would result in elimination of the same-sex relationship categories. The Bureau should not limit the collection or publication of data on same-sex couples through the household relationship question, as this would undermine data quality.

i. Methodological Changes Have Improved the Accuracy of Same-Sex Couple Data Over Time

For the 1990 Decennial Census, the Bureau introduced an "unmarried partner" relationship category alongside "husband/wife (spouse)," allowing same-sex unmarried couples to be identified for the first time based on the combination of responses to the relationship and sex questions.[45] From 1990 through 2010, however, the Bureau's data-processing rules did not preserve same-sex spouses' reported marital status: same-sex couples who identified as husband/wife or spouses were instead reclassified as "unmarried partners" in the published data, regardless of how they had actually responded.[46]

This approach produced substantial measurement error.[47] The Bureau's own research found that roughly 28 percent of reported same-sex couple households in the 2010 Decennial Census were likely actually opposite-sex couple households whose sex had been mismarked, and that the census count of same-sex couple households was 52 percent higher than the ACS-derived estimate for the same year.[48] The error stemmed from the Bureau's reliance on inferring same-sex status from the combination of reported sex and relationship: because opposite-sex couples vastly outnumber same-sex couples, even small rates of sex-mismarking among the former could substantially distort the much smaller estimated population of the latter. This problem was severe enough that the Bureau had to issue a separate, modified set of "preferred" state-level estimates of same-sex couples to correct for it, rather than relying on the standard published counts.

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[45] Frank Hobbs, *Examining American Household Composition: 1990 and 2000*, Census 2000 Special Reports, CENSR-24, U.S. Census Bureau (August 2005), https://www.census.gov/content/dam/Census/library/publications/2005/dec/censr-24.pdf

[46] U.S. Census Bureau, *Frequently Asked Questions About Same-Sex Couple Households* (2013), https://www2.census.gov/topics/families/same-sex-couples/faq/sscplfactsheet-final.pdf; U.S. Census Bureau, *Technical Note on Same-Sex Unmarried Partner Data From the 1990 and 2000 Censuses*. Population Division, Fertility & Family Statistics Branch, (2001), https://web.archive.org/web/20011019034549/http://www.census.gov/population/www/cen2000/samesex.html

[47] *See, e.g.*, Jamie M. Lewis, Nancy Bates, and Matthew Streeter, *Measuring Same-Sex Couples: The What and Who of Misreporting on Relationship and Sex*, SEHSD Working Paper No. 2015-12, U.S. Census Bureau (May 2015), https://www.census.gov/content/dam/Census/library/working-papers/2015/demo/SEHSD-WP2015-12.pdf

[48] Martin O'Connell and Sarah Feliz, *Same-Sex Couple Household Statistics from the 2010 Census*, SEHSD Working Paper No. 2011-26, U.S. Census Bureau (September 2011), https://www.census.gov/library/working-papers/2011/demo/SEHSD-WP2011-26.html.

Recognizing these problems, the Bureau's Interagency Group on Measuring Household Relationships led sustained research and testing between 2013 and 2019—including the 2015 National Content Test[49]—to evaluate whether explicit same-sex and opposite-sex spouse and partner response categories could improve same-sex couple estimates. That testing confirmed the redesigned categories did not result in statistically different item nonresponse rates and produced no significant difference in the distribution of coupled household categories, while directly addressing the known sex-mismarking problem.

Based on this research, the Bureau redesigned the relationship question for the 2020 Decennial Census to add explicit response categories for opposite-sex spouse, opposite-sex unmarried partner, same-sex spouse, and same-sex unmarried partner, and introduced an automated consistency check that flags and re-asks the sex and relationship question when a respondent's answers are internally inconsistent (for example, someone reporting a same-sex spousal relationship whose sex response doesn't match the householder's).[50] The revised question enabled the 2020 Decennial Census, for the first time, to produce distinct totals for opposite-sex and same-sex spouse and unmarried partner households, representing a direct and measurable improvement in household data quality over every prior Decennial Census. To ensure that the Decennial Census continues to produce accurate and reliable data on coupled households across the country, the Census Bureau must preserve these methodological improvements that were made to address known measurement errors and poor-quality data.

ii. Same-Sex Couple Data Remain Important for Research, Policy, and Civil Rights

Decennial Census data on same-sex couples provide an important source of information about a distinct part of the LGBTQ+ population that other data sources may not capture as comprehensively or consistently across geographies and populations. Based on Decennial Census data, the Bureau estimates that in 2020 there were 1.2 million same-sex couple households in the United States with couples located in every state.[51] Additional analysis based on these data have found that nearly one in five same-sex couples are raising children, and

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[49] Emily Seem and Julia Coombs, *2020 Research and Testing: 2015 National Content Test Relationship Question Experiment Analysis Report.* U.S. Census Bureau, (February 2017), https://www.census.gov/programs-surveys/decennial-census/decade/2020/planning-management/plan/final-analysis/2015nct-relationship-question-experiment.html.

[50] Lydia Anderson, Chanell Washington, Thomas Gryn, and Rose M. Kreider, *Households and Families: 2020 Census Briefs*. U.S. Census Bureau. C2020BR-10, (March 2024), https://www2.census.gov/library/publications/decennial/2020/census-briefs/c2020br-10.pdf.

[51] Thomas Gryn, Rose M. Kreider, Chanell Washington and Lydia Anderson, *Married Couple Households Made Up Most of Family Households,* U.S. Census Bureau (May 2023), https://www.census.gov/library/stories/2023/05/family-households-still-the-majority.html;Thomas Gryn and Rose M. Kreider, *About 3 Million People in Same-Sex Couple Households,* U.S. Census Bureau (September 2024), https://www.census.gov/library/stories/2024/09/sdhc-coupled-households.html; Amara Jones-Myers and Lydia Anderson, *Los Angeles Tops Counties with Most Male and Female Same-Sex Couples*, U.S. Census Bureau (August 2024), https://www.census.gov/library/stories/2024/08/same-sex-couples-geographic-variation.html.

same-sex couple householders were represented among all race/ethnicity groups.[52] Decennial Census data on same-sex couples have been used to conduct rigorous research[53], design programs, deliver services, and inform efforts to advance civil rights for LGBTQ+ populations. Such data remain essential for the Bureau and other stakeholders to better understand the size, geographic distribution, characteristics, and socioeconomic conditions of same-sex couple households, including same-sex married couples, and to track changes in these populations over time.

Maintaining accurate and comparable same-sex couple data is particularly important given the legal recognition of same-sex marriage. *Obergefell v. Hodges* established the constitutional right to same-sex marriage nationwide,[54] and the Respect for Marriage Act[55] subsequently established federal and interstate recognition of same-sex marriages. In light of these actions, same-sex couples will continue to represent a notable share of Census respondents. Continued collection and publication of accurate data on same-sex couples is essential to support research, policymaking, program administration, and civil rights enforcement.

For all these reasons, we urge the Bureau not to restrict the collection or publication of same-sex couple data through the household relationship question.

VI. Conclusion

For the reasons discussed above, we strongly oppose the Proposed Rule and urge the Bureau to withdraw it in its entirety. The 2030 Decennial Census must ensure a complete and accurate count of the population, produce reliable demographic data, and maintain public trust. The Proposed Rule would undermine these essential goals.

We appreciate the consideration of our views by the Census Bureau and Department of Commerce and look forward to your responses. For any questions, please contact caroline@mapresearch.org. Thank you for your attention to this critical issue.

Movement Advancement Project
Transgender Law Center
Human Rights Campaign

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[52] The Williams Institute, *2020 Census: 57% of same-sex couples in the U.S. are married, 22% of them are raising children,* UCLA School of Law (September 2025), https://williamsinstitute.law.ucla.edu/press/2020-census-press-release/.
[53] U.S. Census Bureau, *Same-Sex Couples*, (accessed September 16, 2026), https://web.archive.org/web/20260916161524/https://www.census.gov/topics/families/same-sex-couples.html
[54] 576 U.S. 644, 135 S. Ct. 2584, 192 L. Ed. 2d 609 (2015), https://www.supremecourt.gov/opinions/boundvolumes/576BV.pdf#page=689.
[55] 136 Stat. 2305 (2022) *RESPECT FOR MARRIAGE ACT*, PL 117-228, https://www.govinfo.gov/content/pkg/PLAW-117publ228/pdf/PLAW-117publ228.pdf.

Advocates for Trans Equality (A4TE)
Advocates for Youth
AFFA
afrolatin@ forum
APLA Health
Arkansas Black Gay Men's Forum
Autistic Women & Nonbinary Network
Basic Rights Oregon
Bay Area American Indian Two-Spirits, Inc.
California LGBTQ Health and Human Services Network
Callen-Lorde Community Health Center
Center for Law and Social Policy (CLASP)
CenterLink: The Community of LGBTQ Centers
Coalition on Human Needs
Colors+ Youth Center
Community Catalyst
Eastern PA Trans Equity Project
Equality California
Equality Community Center
Equality Federation
Equality Ohio
Equitas Health
Fabulous Arts Foundation
Fair Wisconsin
Forward Together
Garden State Equality Action Fund
Glisten (formerly GLSEN)
GLMA
Great Lakes Bay Pride
Hope for Teens
Immigration Equality
Justice in Aging
Lambda Legal
Lancaster County Chooses Love
Lawyers for Good Government
LGBT Center of Raleigh
LGBT Tech
LGBTQ Center OC
LGBTQ+ Victory Fund
Los Angeles LGBT Center

MAZON: A Jewish Response to Hunger
National Black Justice Collective
National LGBTQ Task Force Action Fund
National LGBTQ+ Bar Association
National Partnership for Women & Families
National Women's Law Center
North County LGBTQ Resource Center
North Shore Alliance of LGBTQ+ Youth (NAGLY)
Northwest Health Law Advocates (NoHLA)
Oasis Legal Services
Omaha ForUs Community Center
One Colorado
one-n-ten
Out Leadership
Out On The Lakeshore
OutFront Minnesota
OutNebraska
Pacific Pride Foundation
Parable of the Sower IC Cooperative
PFLAG National
Planned Parenthood Action Fund
Pomona Valley Pride
Pride Lafayette (Indiana)
PROMO Missouri
Queery Research Consulting
QWELL Community Foundation
Rainbow Labs
Rainbow Railroad
Rocky Mountain Equality
SAGE
San Joaquin Pride Center
San Mateo County Pride Center
Service Employees International Union
Silver State Equality
SOJOURN: Southern Jewish Resource Network for Gender & Sexual Diversity
Taskforce And Action
The Fenway Institute
The Human Rights Alliance
The LIAM Foundation
The Mahogany Project

The Pride Center at Equality Park
The San Diego LGBT Community Center
The Trevor Project
Trans Maryland
TransCanWork, Inc.
TransFamily Support Services
Transgender Resource Center of New Mexico
Triangle Community Center
TruEvolution
Wanda Alston Foundation
Waves Ahead Corp
We Are Family
Whitman-Walker Health
Women Employed
Women's March