



OFFICE OF THE COUNTY EXECUTIVE

Marc Elrich
County Executive

October 27, 2026

Daniel Sweeney
Deputy General Counsel for Economic, Statistical, and Regulatory Affairs
Office of the General Counsel, U.S. Department of Commerce
4600 Silver Hill Road, Designation: ADDEMO/FRN
Washington, DC 20746

Re: Comments on Proposed Rule – Decennial Census of the Population of Americans; Proposed Residence Criteria and Proposed Regulations for Demographic Questions; 15 CFR Parts 60 and 70 (Docket USBC-2026-0628)

Dear Mr. Sweeney:

On behalf of the Montgomery County Government (MCG) in Maryland, we submit the following comments on the U.S. Census Bureau’s proposed rule to add 15 CFR Parts 60 and 70, published in the Federal Register on September 10, 2026 (91 FR 57524; Docket USBC-2026-0628). The proposed rule would exclude many of our residents from the census count, change how and where everyone else is counted, and remove data the County uses to meet its obligations to all our residents. ***MCG urges the Census Bureau to withdraw the proposed rule.***

Montgomery County is Maryland’s most populous jurisdiction, home to 1,065,949¹ residents. About 33.6%² of our residents were born outside the United States, and 43%³ speak a language other than English at home. MCG uses decennial census counts to plan schools, clinics, libraries, and recreation centers, to draw our seven County Council districts, and to receive federal formula funds. The County and its residents receive billions of dollars through federally funded programs that allocate resources based on census-derived data.⁴ ***An undercount means fewer resources to serve the same number of residents.***

The decennial census is the federal government’s largest peacetime civilian operation and the common denominator for nearly every public decision we make, from emergency preparedness to transportation and housing planning. The Census Bureau’s own goal is to count everyone once, only once, and in the right place. ***The proposed rule fails each part of that test.***

¹ U.S. Census Bureau, American Community Survey 2020–2024 5-Year Estimates, Table S0501, “Selected Characteristics of the Native and Foreign-Born Populations,” Montgomery County, Maryland, <https://data.census.gov/table/ACSST5Y2024.S0501>.

² U.S. Census Bureau, American Community Survey 2020–2024 5-Year Estimates, Table S0501.

³ U.S. Census Bureau, American Community Survey 2020–2024 5-Year Estimates, Table S0501. Share of residents age 5 and older. In addition, 15.8% of County residents age 5 and older speak English less than “very well.”

⁴ Project On Government Oversight, Census Matters Fact Sheet: Maryland (2025), <https://docs.pogo.org/report/2025/census-matters/2025-Census-Matters-Fact-Sheet-Maryland.pdf>.

Count everyone: Excluding noncitizens who are not lawful permanent residents conflicts with the Constitution and more than two centuries of practice (§60.4).

The Fourteenth Amendment requires apportionment based on “the whole number of persons in each State.” Every census since 1790 has counted noncitizens where they live, and the Bureau’s 2020 criteria counted foreign citizens living in the United States at their usual residence. The Bureau grounds this reversal in a legal argument it says it “finds merit in,” not in settled law. *The Constitution says persons, not citizens.*

This proposal revives the 2020 effort to exclude undocumented immigrants from apportionment, which a federal court found unlawful and which was never implemented, but goes further. It would exclude lawfully present residents as well and make the exclusion permanent by regulation. *This is a broader version of a policy that has already failed.*

The exclusion reaches far beyond people without legal status. It would drop college students on student visas, workers on H-1B visas, DACA recipients, TPS holders, asylees awaiting adjustment, and others who live here lawfully, often for many years. We estimate that about 150,000 County residents, roughly 14% of our population or one in seven people who live here, are not U.S. citizens.⁵ Many of them would be excluded, including international students (Montgomery College alone enrolls more than 1,200⁶) and some of Maryland’s roughly 6,600 DACA recipients⁷ and more than 20,000 TPS holders, a TPS population that is among the largest in the nation.⁸ Thousands more County residents have cases pending in immigration court, including asylum seekers. These residents are part of our community. They are our neighbors, classmates, coworkers, and families, and like every resident, they rely on County services.

Census counts guide how federal funding is divided among states and communities. In FY2023, Maryland received \$49.1 billion through federal programs that use census data, including \$39.06 billion for Medicare and Medicaid, \$3.97 billion for health and nutrition programs, \$2.62 billion for housing, \$2.09 billion for education, \$1.75 billion for infrastructure, and \$716.2 million for economic development.⁹ Because these allocations rely on census counts for a full decade, even a small undercount costs Maryland for ten years.

⁵ 151,867 of 1,065,949 County residents are not U.S. citizens. U.S. Census Bureau, American Community Survey 2020–2024 5-Year Estimates, Table S0501. This figure includes lawful permanent residents, who would still be counted under the proposed rule.

⁶ Montgomery College, Office of Institutional Research and Effectiveness, Fall 2025 Enrollment Highlights (Oct. 22, 2025), Table 11, https://www.montgomerycollege.edu/_documents/offices/institutional-research-and-effectiveness/student-enrollments/2025-fall2025-enrollment-highlights.pdf. 1,271 international students on temporary visas that allow academic study (Institute of International Education definition), among 4,040 noncitizen students collegewide.

⁷ U.S. Citizenship and Immigration Services, Office of Performance and Quality, “Count of Active DACA Recipients by State or Territory,” as of March 31, 2025 (6,560 in Maryland).

⁸ FWD.us, TPS for El Salvador fact sheet (July 2026), <https://www.fwd.us/wp-content/uploads/2026/07/2026-FWD%5FTPSforElSalvador.pdf>. Estimates 23,000 Salvadoran TPS holders in Maryland as of early 2025, the third-largest among the states listed; estimates by Phillip Connor, Princeton University, based on the 2024 American Community Survey.

⁹ Project On Government Oversight, “Census Matters: Census-Guided Funding in Maryland” (2025), <https://docs.pogo.org/report/2025/census-matters/2025-Census-Matters-Fact-Sheet-Maryland.pdf>. Covers 371 census-guided federal assistance programs nationwide; programs that serve more than one purpose are counted in more than one category.

In Montgomery County alone, audited FY2024 records show more than \$260 million flowing through just four of those programs:

- Title I grants to schools: \$45.0 million¹⁰
- Special education (IDEA): \$48.8 million¹¹
- Head Start: \$6.6 million¹²
- Housing Choice Voucher Program and Community Development Block Grants: \$160.4 million^{13,14}

Each program uses its own formula, so the exact loss is hard to calculate. But removing a large share of the County's roughly 150,000 noncitizen residents from the count would shrink the population these funds are based on, and because census data guide these allocations for a full decade, the loss would compound year after year. ***Excluding these residents does not reduce the County's obligation to serve them. It only reduces the resources to do so.***

Our schools would feel this first. Under *Plyler v. Doe* (1982)¹⁵, public schools must educate every child, regardless of immigration status. Census data drive funding for special education, Head Start, school nutrition, after-school programs, and Title I, which allocates funds using Census Bureau child poverty estimates. The 2010 Census missed an estimated 809,000 children under age 5 nationwide, including more than 19,000 in Maryland, a 5.0% net undercount compared with 3.9% nationally.¹⁶ That undercount cost states more than half a billion dollars a year in just five programs.¹⁷ The proposal does not say whether excluded residents will stay in the population estimates that drive these formulas. Montgomery County Public Schools serves nearly 152,000 students, and about one in five is an emergent multilingual learner.¹⁸ An estimated 20,502 children in the County are not U.S. citizens,¹⁹ and those who are not

¹⁰ Board of Education of Montgomery County, Single Audit Report for the Fiscal Year Ended June 30, 2024, Schedule of Expenditures of Federal Awards. Title I Grants to Local Educational Agencies (ALN 84.010): \$45,048,694.

¹¹ Board of Education of Montgomery County, Single Audit Report for the Fiscal Year Ended June 30, 2024, Schedule of Expenditures of Federal Awards. Special Education Cluster (IDEA, ALN 84.027 and 84.173): \$48,786,154.

¹² Montgomery County, Maryland, Single Audit Report for the Fiscal Year Ended June 30, 2024, Schedule of Expenditures of Federal Awards, Head Start Cluster (ALN 93.600): \$6,624,783, including funds passed through to Montgomery County Public Schools.

¹³ Housing Opportunities Commission of Montgomery County, Annual Comprehensive Financial Report for the Fiscal Year Ended June 30, 2024. HUD Housing Assistance Payments (\$139,899,712) and Housing Choice Voucher administrative fees (\$12,501,670).

¹⁴ Montgomery County, Maryland, Single Audit Report for the Fiscal Year Ended June 30, 2024, Schedule of Expenditures of Federal Awards. CDBG Entitlement Grants Cluster (ALN 14.218): \$7,978,530.

¹⁵ *Plyler v. Doe*, 457 U.S. 202 (1982).

¹⁶ Count All Kids, "Table 3. States Ranked on Number of Persons Age 0 to 4 Undercounted in the 2010 Census" (based on King et al., 2018 Demographic Analysis), <https://countallkids.org/wp-content/uploads/2018/10/Table3-2010Census-states-Undercount-ranks.pdf>.

¹⁷ Deborah Stein, "Counting All Children in the 2020 Census Would Benefit Poor Children: State and Local Advocates Can Help," Georgetown University Center for Children and Families (June 18, 2019), <https://ccf.georgetown.edu/?p=37225> (losses in Medicaid, CHIP, foster care, adoption assistance, and child care).

¹⁸ Montgomery County Public Schools, The Superintendent's FY 2028 Capital Budget and Amendments to the FY 2027–2032 Capital Improvements Program, Chapter 2, "The Planning Environment," <https://www.montgomeryschoolsmd.org/departments/planning/cipmaster/>. Preliminary September 30 enrollment of 151,967 for the 2026–2027 school year; 19.4% of students were in the English Language Development program in the 2025–2026 school year.

¹⁹ 20,502 of the County's approximately 243,000 children under age 18 are not U.S. citizens (151,867 noncitizens × 13.5% under age 18; 1,065,949 residents × 22.8% under age 18). U.S. Census Bureau, American Community Survey 2020–2024 5-Year Estimates, Table S0501.

lawful permanent residents would be excluded under §60.4. ***The rule would undercount the very children our schools are legally required to serve.***

We urge the Census Bureau to:

- Withdraw §60.4 and keep the 2020 criterion that counts foreign citizens living in the United States at their usual residence.
- Count every resident, regardless of immigration status, in the apportionment count and in the redistricting data provided to states under Public Law 94-171.
- At a minimum, confirm that residents excluded from the apportionment count will remain in the population and child poverty estimates used to allocate federal education funds.

Count once, accurately: Using administrative records to determine legal status, or adding an untested legal-status question, will introduce errors and drive down response.

The Bureau proposes to determine legal status using records from the Departments of Homeland Security, State, Treasury, and Health and Human Services, the Postal Service, state and local governments, and commercial data vendors. Administrative records do not cover the entire population, and many do not reflect where people actually live. Tax records rely on mailing addresses, not residential addresses, and address information is often out of date. Every record linkage introduces error: some people are matched to the wrong person, and others are missed entirely. Citizenship is especially hard to confirm this way. Many U.S. citizens born abroad to a U.S.-citizen parent, or who derived citizenship from a parent, became citizens automatically by operation of law²⁰ and were never required to obtain proof from the Department of State or U.S. Citizenship and Immigration Services. They may not appear as citizens in any federal record. Legal status other than citizenship is not collected on any census or federal survey, and estimates below the state level stack assumptions that compound error. That is why government agencies and researchers generally do not publish them for counties.²¹ The proposal does not name which records will be used, their error rates, or how a resident wrongly excluded could correct the record. ***Residents could be dropped from the count with no way to fix the error.***

In *Department of Commerce v. New York* (2019)²², the Bureau's own experts projected that a citizenship question would lower response rates among noncitizen households. A legal-status question has never been tested on the decennial census. That question, or public knowledge that responses will be matched against immigration records, will push those rates lower and spill over to U.S.-citizen family members in mixed-status households. With recent federal efforts to revoke citizenship, the question is sensitive even for U.S. citizens, including naturalized citizens, dual citizens, citizens born abroad, and those who derived citizenship from a parent. In 2020, Montgomery County's self-response rate was 78.0%, compared to 71.2% statewide, after years of County investment in multilingual outreach and in building trust with communities.²³ This rule would undo that work and the trust behind it. ***Fear of immigration enforcement will suppress responses from citizens and noncitizens alike.***

²⁰ 8 U.S.C. § 1401 (nationals and citizens of the United States at birth); 8 U.S.C. § 1431 (children born outside the United States who automatically acquire citizenship).

²¹ For the same reason, the County cannot reliably estimate how many of its 151,867 noncitizen residents would be excluded under §60.4.

²² *Department of Commerce v. New York*, 588 U.S. 752 (2019).

²³ U.S. Census Bureau, 2020 Census Self-Response Rates Map, <https://www.census.gov/library/visualizations/interactive/2020-census-self-response-rates-map.html>.

We urge the Census Bureau to:

- Not add a citizenship or legal-status question to the decennial census questionnaire.
- Not use administrative records to exclude residents from the count.
- Not codify in regulation which administrative records the Bureau must use. Instead, publish the specific record sources, their match error rates, and a process for residents to correct errors before any use of administrative records in the enumeration.

In the right place: The new definition of “usual residence” and the consolidation of residence categories will count residents in the wrong place, or not at all (§60.2, §60.3, §60.9, §60.10).

The proposal replaces the long-standing standard, where a person lives and sleeps most of the time, with the place a person has “lawfully” spent the most days between January 3 and April 1, “consistent with” tax records. “Lawfully” is not defined, and neither is “residence”; it is unclear how a home-based child care or a health care setting would be treated. A family that moves in March could be counted where it lived in January. Many residents do not file tax returns, including low-income workers, older adults on fixed incomes, young adults, and people in doubled-up or informal housing. ***Tax records are not a reliable measure of where people live.***

The proposal also cuts 21 residence categories to eight. It drops specific rules for nursing homes and other health care facilities, group homes, residential treatment centers, domestic violence and homeless shelters, people experiencing homelessness, boarding schools, religious group quarters, and college students. Under the proposal, it is unclear whether foster children would be counted at all, or whether a survivor in a domestic violence shelter would be counted at the home she fled. Montgomery County has more than 7,700 residents in nursing homes and assisted living facilities, which have a combined capacity of 10,088 beds; 1,120 people experiencing homelessness at the most recent Point-in-Time count; 60 beds in domestic violence shelters²⁴; and more than 20,500 college students. ***Removing these rules invites errors for the residents who rely most on County services.***

Under §60.3, dependents are counted at the residence of the “provider” where they spent the most days, but “provider” is not defined. On average, MCG administers foster care and kinship placements for 326 children, about 32% of whom are placed in kinship homes.²⁵ ***Children should be counted where they live, so funding follows the cost of their care.***

We urge the Census Bureau to:

- Keep the 2020 usual residence standard: the place where a person lives and sleeps most of the time.
- Not require a person’s residence to be consistent with tax records.
- Restore specific residence rules for group quarters and special populations, including nursing homes, domestic violence and homeless shelters, group homes, college housing, foster children, and people experiencing homelessness.
- Define “provider” so that children in foster, kinship, and shared custody arrangements are counted where they live.

²⁴ Internal data provided by the Montgomery County Department of Health and Human Services (2026).

²⁵ Data provided by the Montgomery County Department of Health and Human Services (2026).

Removing race and ethnicity questions and restricting disclosure avoidance will leave the County without data it relies on to comply with federal law (Part 70).

Race has been asked in every U.S. census since 1790. Race and ethnicity data from the decennial census are used to enforce the Voting Rights Act, determine language assistance obligations under Section 203, monitor civil rights compliance, and identify public health disparities. Census data also guided the distribution of an estimated \$2.8 trillion in federal funds across 353 programs in FY2021.²⁶ People are the most reliable source of their own identity, and replacing self-reported data with administrative records would make the data less accurate. The American Community Survey cannot replace these data at the block level needed for redistricting. *Counties need block-level race and ethnicity data to meet their obligations.*

The ban on sexual orientation questions also raises concern about whether the Bureau will continue to collect and report data on same-sex couples through the household relationship question, as it has for decades. Section 70.3 would bar any disclosure avoidance method that adds uncertainty to population counts. This restriction raises the risk that individual responses can be identified in small geographies. The proposal does not explain how the Bureau will meet its confidentiality obligations under Title 13. *Residents will not respond if they cannot trust their answers stay private.*

We urge the Census Bureau to:

- Keep self-reported race and ethnicity questions on the decennial census questionnaire.
- Continue to collect and publish data on same-sex couples through the household relationship question.
- Explain how the Bureau will protect respondent confidentiality under Title 13 before adopting any limits on disclosure avoidance.

The rule directly affects local governments and requires consultation and a full analysis of its impact.

The proposed rule states that it has no federalism implications and only indirect effects on local governments. That is not the case. Census counts drive federal formula funding to counties and are the legal basis for state and local redistricting. Codifying these criteria in regulation would bind future censuses and make them harder to correct. Yet the Bureau, which designated this a significant regulatory action, originally allowed only 33 days for comment. Even the extended 53-day period is not enough time to review changes of this scope. *Counties are directly affected and must be consulted.*

We urge the Census Bureau to:

- Extend the comment period to December 10, 2026.
- Consult directly with state and local governments before taking any further action on this rule.
- Publish an analysis of the rule's effect on federal funding to each state and county.

The proposed changes cannot be properly tested before the Bureau's deadlines to Congress.

²⁶ U.S. Census Bureau, "Uses of Decennial Census Programs Data in Federal Funds Distribution: Fiscal Year 2021" (2023), <https://www.census.gov/library/working-papers/2023/dec/census-data-federal-funds.html>.

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Major changes to how the census counts people require years of research, testing, and evaluation, with input from outside experts. The Bureau must submit the 2030 Census topics to Congress by April 1, 2027, and the actual questions by April 1, 2028.²⁷ None of the proposed changes can be adequately tested by then. Rushing them into the 2030 Census risks delays, errors, lower participation, and lost public trust. ***An untested census will count fewer people, less accurately.***

We urge the Census Bureau to:

- Not adopt any change to residence criteria, demographic questions, or the use of administrative records that has not been fully researched and tested before these deadlines.

Conclusion

MCG is committed to a complete and accurate 2030 Census and has invested years in outreach to make sure every resident is counted. The proposed rule would undo that work and shift costs to counties and their taxpayers. In summary, we urge the Census Bureau to:

- Withdraw proposed 15 CFR Parts 60 and 70.
- Extend the comment period to December 10, 2026.
- Count every resident where they live, regardless of immigration status.
- Not add a legal-status question or use administrative records to exclude residents from the count.
- Keep race and ethnicity questions and specific residence rules for group quarters and people experiencing homelessness.
- Consult with state and local governments and publish a full analysis of the rule's impact on local funding.

We stand ready to provide additional information or to meet with Census Bureau staff to discuss these comments in greater detail. Please contact Luisa F. Cardona, Assistant Chief Administrative Officer, at luisa.cardona@montgomerycountymd.gov with any questions.

Sincerely,



Marc Elrich
County Executive
Montgomery County, Maryland



Natali Fani-González
Council President
On behalf of the Montgomery County Council

²⁷ 13 U.S.C. § 141(f)(1)–(2) (topics due three years, and questions two years, before Census Day).

Re: Comments on Proposed Rule – Decennial Census Residence Criteria and Demographic Questions; 15 CFR Parts 60 and 70 (Docket USBC-2026-0628)

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cc: The Honorable Christopher Van Hollen, Jr., United States Senator
 The Honorable Angela D. Alsobrooks, United States Senator
 The Honorable Glenn F. Ivey, Member of Congress (MD-04)
 The Honorable April McClain Delaney, Member of Congress (MD-06)
 The Honorable Jamie B. Raskin, Member of Congress (MD-08)