

November 2, 2026
Daniel Sweeney
Deputy General Counsel for Economic, Statistical, and Regulatory Affairs
Office of the General Counsel
U.S. Department of Commerce
Washington, DC 20230

SUBMITTED ELECTRONICALLY

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

Dear Mr. Sweeney

The Consortium for Constituents with Disabilities (CCD) Health and Housing Task Forces appreciate the opportunity to comment on the proposed rule "Decennial Census of the Population of Americans; Proposed Residence Criteria and Proposed Regulations for Demographic Questions" (Federal Register Notice Docket Number USBC-2026-0628, published September 10, 2026). CCD is the largest coalition of national organizations advocating for federal public policy that ensures self-determination, independence, empowerment, integration, and inclusion of children and adults with disabilities in all aspects of society. The undersigned members of the Health and Housing Task Forces strongly oppose the proposed rule's changes to the residence criteria and demographic items for the 2030 Census.

Accurate Census data are particularly important to intersectional disability communities and the public programs and services that serve them. Changes that result in people being miscounted, counted in the wrong place, not counted at all, or rendered less visible in federal data will have adverse consequences on funding for the critical programs that serve people with disabilities. Thus, we are deeply troubled by the proposed residence criteria and changes to demographic questions which

would undermine the accuracy, integrity, and usefulness of Census data and put at serious risk investments in crucial programs for people with disabilities.

1. **Disability is Intersectional. Excluding from Apportionment Noncitizens Without "Lawful Permanent Residence" and/or Asking About Legal Status on the Questionnaire Will Undercount People with Disabilities**

Disability is an intersectional characteristic and disabled people are a part of every racial, ethnic, socioeconomic, geographic, and immigrant community. In fact, much of the disability population is composed of other minority groups such as people of color (nearly 60 percent of those with disabilities identify as non-white) and adults with income below the federal poverty level. People with disabilities are also members of immigrant, mixed-status, and other communities. Around 5 percent of immigrant adults ages 18-64 have a disability, and half of those individuals have multiple disabilities. Older immigrants aged 50-64 report higher rates of disability (about 10 percent). The prevalence of disability among refugees has been estimated to be even higher at around 16 to 33 percent.

Failing to include for apportionment purposes the number of noncitizens without a "usual residence" as defined in the proposed rule will result in an undercount of people with disabilities—an intersectional population that has long been classified as hard to count by the Census Bureau. This would exclude many categories of U.S. residents with disabilities including visa holders, refugees, asylum applicants, undocumented immigrants, and others. Failing to count these individuals violates the 14th Amendment and denies representation to people with disabilities residing in the U.S.

Additionally, the Census Bureau notes that it could propose adding a question about legal status to the Census Short-Form Questionnaire. As the Leadership Conference on Civil and Human Rights notes, "an immigration status question would lead to an inaccurate Census and malapportioned appointment." It would also reduce response rates for many groups of people due to government mistrust, including citizens living in households with noncitizens, and damage the accuracy of the Census.

2. **Redefining "Usual Residence" and Adding an Enumeration Period Will Lead to an Inaccurate Count of People with Disabilities**

The proposed rule would radically redefine the concept of "usual residence" by tying enumeration to a residence where an individual "lawfully spent the greatest number of days during the Census enumeration period." An individual is considered to have

spent a day at a residence if they've spent at least "one hour physically and lawfully present there." The terms "physically" and "lawfully" are not defined, and within this new proposal, a person may spend a day at more than one residence. To assist with establishing a place of "usual residence," the Census Bureau says it will cross-reference tax records.

These changes are particularly concerning and confusing for people with disabilities. Disabled people may have complex or nontraditional living arrangements and frequently move among family homes, supported living arrangements, group homes, nursing facilities, assisted living facilities, shelters, rehabilitation settings, and other residential environments. As one example, KFF indicates that approximately 1.24 million people lived in federally certified nursing facilities as of July 2025. In addition, approximately 63,085 people with intellectual and developmental disabilities lived in Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs/IID) in 2021, according to the University of Minnesota's Institute on Community Integration. The U.S. Government Accountability Office reported that approximately 34,000 children in foster care were placed in residential facilities in 2022, including facilities serving youth with behavioral, emotional, mental health, and substance use needs.

Many people with disabilities require these long-term services and supports, while others may need shorter-term or periodic post-acute care, medical, behavioral health, crisis, or supportive services and reside in settings only temporarily. How will the Bureau precisely define residency for people with disabilities who are in congregate care or who receive intensive services in one or several locations for more than an hour per day, while their primary residence is elsewhere, or for people with disabilities who attend day programs or receive respite care?

Historically, enumeration and usual residence have been tied to Census Day (April 1). In other words, the Census determines residency by where a person lives on April 1. Instead, the Bureau proposes to measure usual residence over a range of dates from January 3 to April 1. The new three-month "enumeration period" rather than the traditional count on April 1 may raise concerns for people with disabilities, who often cycle between placements and settings.

We also question how the Bureau will determine the usual residence of unhoused individuals, who are more likely to have disabilities. Use of the term "lawfully" residing compounds this issue, as it gives the Bureau discretion to interpret this term and either exclude many individuals or enumerate them in a place where they do not reside.

Ultimately, residence criteria should reflect where people actually live and should be designed and tested to minimize the risk of excluding people whose living arrangements do not fit traditional household patterns. It is inappropriate to use tax records to verify Census records for people whose living arrangements, income, benefits, or financial circumstances do not correspond neatly with their actual place of residence.

The proposed rule also fails to adequately address issues with counting incarcerated people where they are confined on Census Day. People with disabilities make up a significant share of the prison population. Forty percent of people in state prisons have a disability. According to the Bureau of Justice Statistics' 2016 Survey of Prison Inmates, 29% of people in federal prison report having at least one nonpsychiatric disability. Nonpsychiatric disabilities are more prevalent among certain demographic groups within prisons, including among females (40%), individuals aged 55 to 64 (51%), and individuals 65 or older (68%). As the prison population continues to age rapidly, the percentage of incarcerated people with disabilities will likely grow in the coming years.

The practice of enumerating people at correctional facilities where they are temporarily confined rather than their home communities distorts population counts for resource distribution and political representation for people with disabilities. The harm of this distortion is felt especially by incarcerated people with disabilities who, just like those in congregate settings and/or those who receive treatment outside of their homes, will need services and supports upon return to their communities. Federal funding is distributed based on the apportionment, so counting people in prison or institutional settings will likely lead to more resources going into those communities, and not to their home communities to be available upon release.

The Census Bureau should revise the residence criteria to count incarcerated individuals and all people with disabilities in their home communities. Doing so would improve the accuracy of population data and provide communities with a more accurate understanding of the populations they serve, including people with disabilities.

3. **People with Disabilities Who Rely on Public Programs and Services Are Harmed by Inaccurate Counts**

Inaccurate Census counts harm people with disabilities because it affect the allocation of federal resources for more than 200 programs and services - including a particularly harsh impact on federal funding for health care, housing and

educational programs serving people with disabilities; it reduces the accuracy of other surveys of importance for people with disabilities, including the American Community Survey; and miscounting prevents states, localities, and service providers from accurately predicting supports needed by population, and thus accurately allocating non-federal resources to people with disabilities.

Having an accurate Census is critical to ensuring the effective deployment of billions of dollars of federal funding. When the Census produces inaccurately low population counts for states, it reduces the percentage of federal assistance for programs like Medicaid and CHIP that use the Federal Medicaid Assistance Percentage (FMAP) to determine federal share of costs. This means that states receive less support and, as we have seen in response to other federal cuts, people with disabilities are more likely to lose access to necessary programs and services.

The Department of Housing and Urban Development (HUD) uses population, housing, and demographic data from the Census in formulas to allocate funds. For example, Census data is used to determine how Community Development Block Grants (CDBG) are allocated based on area population, population growth, poverty, housing overcrowding, and the age of the housing stock. In addition, local jurisdictions rely directly on Census data to formulate their Consolidated Plans—the central planning vehicle required by HUD to evaluate community needs and direct resource allocation across CDBG, the HOME Investment Partnerships Program, and other formula grant initiatives.

Census data also helps calculate Fair Market Rent, which establishes the maximum subsidy limits and payment standards that public housing authorities use to determine voucher amounts for private-market apartments. The Low Income Housing Tax Credit also relies on Census data to assess local housing needs and allocate tax credits for the development of affordable housing.

A Census undercount puts disabled people's housing at risk, including the more than 2 million disabled people who currently receive federal housing assistance and the more than 18 million who qualify but remain without the needed assistance. Accurate data is vital to ensuring that housing programs can continue effectively serving people with disabilities and be expanded to reach more individuals in need. As people with disabilities are disproportionately affected by the housing crisis, they are more likely to be harmed when inaccurate Census counts lead to inaccurate allocations of federal housing assistance.

Additionally, an inaccurate Census puts educational programs for students with disabilities at risk. If a poor Census count masks a state's population growth, the

state will not receive an equitable distribution of federal money in line with the Individuals with Disabilities Education Act (IDEA) to provide supports to students with disabilities. These supports include Child Find, educators for students with disabilities, specialists, therapists, school psychologists and others essential to providing children the services to which they are entitled. The loss of any funding for these supports would be devastating to schools, to children, and their families.

Beyond the apportionment of federal dollars, more than 13,000 local school districts rely on highly accurate, local demographic baselines from the Census to audit whether their educational supports for students with disabilities align with local community realities and needs. Removing this infrastructure strips school systems of the objective data needed to defend or adjust their local funding and compliance measures.

In general, inaccurately counting residents makes it more difficult for policymakers and service providers to understand the number and characteristics of individuals with disabilities living in a community and to plan appropriately for their needs. An inaccurate population count affects state and local community planning and allocation of programs and services on which people with disabilities rely, including health care programs, accessible transportation and paratransit, education and employment transition services for disabled students, housing assistance, and emergency and disaster response.

4. **Eliminating Race and Ethnicity Data Collection, And Barring Future Collection of Sexual Orientation Data, Will Harm the Utility of Decennial Census Data for People with Disabilities**

The proposal would remove race and ethnicity questions from the decennial Census questionnaire and bar future Census questionnaires from asking information about sexual orientation. Since the first Census in 1790, every decennial Census has collected data on race in some form. Census race and ethnicity data underpin many critical federal datasets and serve as an important benchmark for population-based surveys and research. Even if this information is still collected on the American Community Survey (ACS), the ACS data would be impossible to evaluate because the ACS uses the decennial data.

Race and ethnicity data, in addition to sexual orientation data, are essential to understanding disability in its full context, including how these demographics impact disability prevalence, access to services, health outcomes, economic circumstances, and other characteristics across race and ethnicity. Without this demographic information, it is more difficult to identify and understand disparities affecting people

with disabilities with intersecting identities. It would limit the ability of policymakers, researchers, service providers, and disability organizations to identify where resources and interventions are needed and to evaluate whether programs are reaching the people they are intended to serve.

Race and ethnicity data are also necessary to enforce civil rights laws and ensure equal opportunity. Compliance with the Fair Housing Act, the Voting Rights Act of 1965, Title VII of the Elementary and Secondary Education Act of 1965, and Title VI and Title VII of the Civil Rights Act of 1964 all rely on race and ethnicity data from the Census. This is particularly important for people with disabilities who experience multiple, overlapping forms of discrimination and who may otherwise become invisible in population-level data.

For these reasons, we strongly oppose the changes proposed in this rule. We call on the Census Bureau and Department of Commerce to:

1. Count all people residing in the United States in the 2030 Census, without regard to immigration status. Excluding noncitizens from Census apportionment data would suppress the count of many populations, including the disability population, and is likely to affect both access to resources and representation.
2. Withdraw the proposed changes to residence criteria, including tying place of residence to tax records and “usual residence” and adopting a three-month enumeration period. The Census Bureau should extensively research and consult with stakeholders—including disability organizations and people with disabilities—about the potential effects of such changes before proposing their implementation in a decennial Census.
3. Halt the practice of prison gerrymandering by counting incarcerated individuals in their home communities. This will yield more accurate population data and ensure that communities receive the representation and resources associated with an accurate Census count.
4. Continue collecting race and ethnicity data using the decennial Census. Race and ethnicity data are essential for civil rights enforcement, research, public health, service planning, and understanding intersecting populations, including the disability population.
5. Conduct a disability impact analysis of proposed changes to Census residence criteria and demographic data collection before implementation. The Census Bureau should assess the potential effects of proposed changes on people with disabilities, including people with complex living arrangements

and people with disabilities who are members of other historically undercounted or underserved populations.

6. Protect and preserve the ability to analyze disability alongside other demographic characteristics. Census and related federal data systems should support the ability of researchers, policymakers, and communities to understand how disability intersects with race and ethnicity, age, sex, geography, economic circumstances, and other characteristics.

We appreciate your consideration of these comments. Should you have questions, please contact the Housing and Health Task Force co-chairs Allie Cannington (allie@thekelsey.org) or Brit Vanneman (vanneman@healthlaw.org).

Sincerely,

Access Ready Inc.
American Association of People with Disabilities
American Association on Health and Disability
American Foundation for the Blind
American Music Therapy Association
American Therapeutic Recreation Association
Assistive Technology Industry Association (ATIA)
Association of Assistive Technology Act Programs
Autistic Self Advocacy Network
Center for Public Representation
Center for Law and Social Policy (CLASP)
CommunicationFIRST
Council of Parent Attorneys and Advocates (COPAA)
Disability Rights Education and Defense Fund (DREDF)
Epilepsy Foundation of America
Family Voices National
Lakeshore Foundation
Muscular Dystrophy Association
National Alliance to End Homelessness
National Association of Councils on Developmental Disabilities
National Association of County Behavioral Health and Developmental Disability Directors (NACBHDD)
National Alliance on Mental Illness (NAMI)
National Disability Rights Network (NDRN)
National Down Syndrome Congress (NDSC)
National Health Law Program (NHeLP)

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