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People For the American Way

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American Federation of Teachers

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Asian Americans Advancing Justice |
AAJC

President and CEO
Maya Wiley

May 7, 2024

The Honorable Mike Johnson
Speaker of the House
United States House of Representatives
H-232, The Capitol
Washington, D.C. 20515

The Honorable Hakeem Jeffries
Minority Leader
United States House of Representatives
2433 Rayburn House Office Building
Washington, D.C. 20515

Dear Speaker Johnson and Minority Leader Jeffries:

On behalf of The Leadership Conference on Civil and Human Rights, a coalition charged by its diverse membership of more than 240 national organizations to promote and protect the rights of all persons in the United States, our Census Task Force co-chairs, Asian Americans Advancing Justice | AAJC and NALEO Educational Fund, and the 239 undersigned organizations, **we write to urge you to oppose H.R. 7109, the Equal Representation Act, and any future efforts to ask about citizenship status on the decennial census and to exclude noncitizens from the apportionment counts.**

As a threshold matter, H.R. 7109 seeks to achieve a clearly unconstitutional purpose, according to both Republican and Democratic administrations and the Congressional Research Service.¹ The bill would require the U.S. Census Bureau to exclude noncitizens from the congressional apportionment calculation after each census — an action that would clearly violate the plain meaning of the 14th Amendment to the U.S. Constitution to apportion seats based on “the whole number of *persons* in each State” (emphasis added), regardless of citizenship. Denying representation to all “persons” seeks to erase and undo the historic democratic purpose of the 14th Amendment and take us back to the 1860s. The U.S. Supreme Court has recently noted that “representatives serve all residents, not just those eligible to vote,” when considering the 14th Amendment’s requirements in *Evenwel v. Abbott* (578 U.S. ____). 136 S.Ct. 1120 (2016)).

Moreover, the bill essentially seeks to amend the Constitution through legislation, by changing the 14th Amendment apportionment directive from an allocation of seats based on a count of all persons, to one based only on citizens. This effort directly contradicts the established process for amending the Constitution, set forth in Article V.

¹ Lee, Margaret M. Lunder, Erika K. “Constitutionality of Excluding Aliens from the Census for Apportionment and Redistricting Purposes.” *Congressional Research Service*. January 1, 2010. https://digital.library.unt.edu/ark:/67531/metadc627196/m1/1/high_res_d/R41048_2010Jan20.pdf; See also “Apportioning Seats in the U.S. House of Representatives Using the 2013 Estimated Citizen Population.” *Congressional Research Service*. October 30, 2015. <https://crsreports.congress.gov/product/pdf/R/R41636>.

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Equally troubling, if enacted, this section would put the success of future censuses at risk:

1. **H.R. 7109 would undermine 2030 Census accuracy in every state and every community by creating a climate of fear among all immigrants, their families, and their neighborhoods.** Asking about citizenship status in the census is unnecessarily intrusive and will raise concerns among all respondents — both native-born and immigrant, citizens and noncitizens, and mixed-status households alike — about the confidentiality and privacy of information provided to the government. This will have a chilling effect, keep many households from responding, and undermine the accuracy of the count.
2. **The Census Bureau cannot reliably determine the citizenship status of all residents without destroying the chance for an accurate census in all states.** Census Bureau research and testing have shown that response rates would decrease if such a question were added to the census. The result would be that millions of citizens and noncitizens alike, especially people living in mixed-status households, including many children, would be missed. Because census data guide the allocation of \$2.8 trillion annually in federal assistance to states, localities, individuals, and families for a range of vital services, an inaccurate census will skew the fair and prudent distribution of federal resources for the next decade.

In short, H.R. 7109 seeks to accomplish an unconstitutional goal; tries to amend the Constitution through unconstitutional means; and would put the accuracy of the multi-billion dollar, constitutionally required decennial census at grave risk in every state and community. For these reasons, we strongly urge you to oppose H.R. 7109 and any further efforts to ask about citizenship status on the decennial census and to exclude noncitizens from the apportionment counts.

Thank you for considering our views. If you have any questions, please contact Meeta Anand, senior program director of census and data equity at The Leadership Conference on Civil and Human Rights, at anand@civilrights.org.

Sincerely,

The Leadership Conference on Civil and Human Rights
Asian Americans Advancing Justice | AAJC
National Association of Latino Elected and Appointed Officials (NALEO) Educational Fund

1,2,3 JUMP
20/20 Vision
A Better Chance A Better Community
AAPI New Jersey
Acción Hispana/Qué Pasa
Action NC

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Action NC RAGE
Adhikaar For Social Justice and Human Rights
AFT
Albuquerque Community Foundation
All On The Line
AltaMed Health Services Corporation
American Atheists
American Civil Liberties Union
APIC SPS
Arab American Institute (AAI)
Arizona Asian American Native Hawaiian Pacific Islander for Equity
Asian American Advancing Justice - Asian Law Caucus
Asian American Arts Alliance
Asian American Federation
Asian and Pacific Islander American Vote (APIAVote)
Asian Law Alliance
Asian Pacific Institute on Gender-Based Violence
Asian Texans for Justice
Association of Chinese Americans
Association of Farmworker Opportunity Programs (AFOP)
Association of Mexicans in North Carolina, Inc. (AMEXCAN')
Battle Born Progress
Bend the Arc: Jewish Action
Borderlands Resource Initiative
Brennan Center for Justice
California Black Power Network
Campaign Legal Center
Caribbean Equality Project
Catalyst of San Diego & Imperial Counties
Center for Law and Social Policy
Children's Advocacy Alliance
Children's Defense Fund
Children's HealthWatch
Chinese-American Planning Council (CPC)
Chispa LCV
Church World Service
Church World Service - Durham
Citizens for Responsibility and Ethics in Washington (CREW)
Clean Elections Texas
Clean Water Action
Clearinghouse on Women's Issues
Coalition for Asian American Children and Families (CACF)
Coalition for Humane Immigrant Rights (CHIRLA)

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Coalition on Human Needs
Common Cause
Common Cause Georgia
CommunicationFIRST
Communities United for Status & Protection (CUSP)
Community Care Clinic of Highlands-Cashiers
Community Change Action
Community Inclusion & Development Alliance
Congregation of Our Lady of Charity of the Good Shepherd, U.S. Provinces
Creando Familia Felices
Dancing Hearts Consulting LLC
Democracy 21
Demographic Analytics Advisors
Demos
Disability Rights California
Disability Rights Education & Defense Fund
Dorothy Day Catholic Worker, Washington DC
Durham NCNW
Earthjustice
Economic Policy Institute
Empowering Pacific Islander Communities
End Citizens United // Let America Vote Action Fund
Esperanza United
FaithAction International
Fayetteville Alumnae Chapter of Delta Sigma Theta Sorority, Inc.
Feminist Majority Foundation
First Focus Campaign for Children
Fix Democracy First
Florida Immigrant Coalition
Florida Philanthropic Network
FLORIDA RISING
Florida Student Power
Food Justice DMV
Fourth Branch Action
FUERZA Y UNIÓN MÚLTIPLE (FUM)
Funders Together to End Homelessness
Funders' Committee for Civic Participation (FCCP)
Future Endeavors Life Program
Generations United
Georgia Muslim Voter Project
Georgia Redistricting Alliance
Georgia STAND UP
GLSEN

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Government Information Watch
GreenLatinos
HandsOn Northwest North Carolina
Helping Hands USA
Hip Hop Caucus
Hispanic Federation
Hogar del inmigrante, inc
Homecrest Community Services
Human Rights Campaign
Immigrant Social Services (ISS)
Immigration Hub
Impact Fund
India Home inc
Inter-Faith Committee on Latin America (IFCLA)
Interfaith Alliance
International Friendship Center
Jahajee Sisters
Japanese American Citizens League (JACL)
Jewish Women International
Jones County Community Hope, Inc
Labor Council for Latin American Advancement
Laotian American National Alliance
Las Vegas Indian Center
Latino Community Fund (LCF Georgia)
LatinoJustice PRLDEF
League of Conservation Voters
League of United Latin American Citizens
League of Women Voters of California
League of Women Voters of the United States
Let's Make It Happen Together, Inc.
Lila Latinx LGBTQ Inc
Lionel Lee Jr. Center for Wellness
Make the Road Nevada
Making Visions
MALDEF (Mexican American Legal Defense and Educational Fund)
MANA, A National Latina Organization
Mi Familia Vota
Michigan Nonprofit Association
Migrant Equity Southeast
Minnesota Council on Foundations
MN8
MoCo Life 910, Inc
Movement Advancement Project

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N.Y. Elections, Census, & Redistricting Institute (at New York Law School)
NAACP Charlotte- Mecklenburg Branch
NAACP Legal Defense Fund
NALEO Educational Fund
Nariah's Way Foundation
National Advocacy Center of the Sisters of the Good Shepherd
National Asian Pacific American Bar Association (NAPABA)
National Association of Social Workers
National Council of Asian Pacific Americans (NCAPA)
National Council of Churches
National Council of Jewish Women
National Disability Rights Network (NDRN)
National Education Association
National Employment Law Project
National Federation of Filipino American Associations
National Health Law Program
National Immigration Forum
National Immigration Law Center
National Latina Institute for Reproductive Justice
National LGBTQ Task Force Action Fund
National Network for Arab American Communities (NNAAC)
National Organization for Women
National Partnership for New Americans
National Partnership for Women & Families
National Women's Law Center
NC Counts Coalition
NC FIELD, Inc.
NC Sustainable Business Council
Nebraska Appleseed
NETWORK Lobby for Catholic Social Justice
New Mexico Community Trust
New York Immigration Coalition
North Carolina Asian Americans Together
NYC Department of City Planning
OCA - Asian Pacific American Advocates
OCA-Greater Houston
Orange County Asian and Pacific Islander Community Alliance
Other Suns Cafe and coffee shop
People For the American Way
People Power United
PFLAG National
Philanthropy Northwest
Pisgah Legal Services

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Planned Parenthood Federation of America
Prison Policy Initiative
Progressive Turnout Project
Project 70Forward
Project Cover
Project On Government Oversight
Protect the Vote GA
Public Advocacy for Kids (PAK)
Public Advocates
Public Citizen
REACH Healthcare Foundation
Reproductive Freedom for All (formerly NARAL Pro-Choice America)
Scotland Neck Community Taskforce Team, Inc.
Selfless Nonprofit Organization
Service Employees International Union (SEIU)
Shackle Free Community Outreach Agency, Inc.
Silver State Voices
Social Change
Social Explorer, Inc.
Social Workers for Immigration Justice
Southeast Asia Resource Action Center (SEARAC)
Southern Coalition for Social Justice
Spiritual Destiny Int'l Ministries
State Voices
Stop AAPI Hate
Storied Analytics LLC
T.I.A. Through It All
T'ruah: The Rabbinic Call for Human Rights
Tennessee Immigrant & Refugee Rights Coalition
TESOL International Association
TFBU Foundation
The Advocates for Human Rights
The Farmworker Association of Florida
The Funders Network
The Help Center NC
The National Network for Arab American Communities
The Prentice Foundation
The Restaurant Opportunites Center of Michigan (ROC Michigan)
The Restaurant Opportunities Center of Pennsylvania (ROC PA)
The Restaurant Opportunities Center United (ROC United)
The Sikh Coalition
The Workers Circle
The Wright's Center, Inc.

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thegroupTheory, Inc.
Transformative Justice Coalition
Transparency International U.S.
True Ridge
U2U
UnidosUS
Union for Reform Judaism
Union of Concerned Scientists
United Church of Christ
United States Hispanic Chamber of Commerce
United Way of Rhode Island
Virginia Coalition for Immigrant Rights
VOICES for Alabama's Children
Voto Latino
Wake County Southern Christian Leadership Conference
Whitman-Walker InstituteYWCA of Queens
YWCA USA

cc: Members, Full House