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UnidosUS

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Asian Americans Advancing Justice |  
AAJC

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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 243 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.<sup>1</sup> 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 14<sup>th</sup> 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 14<sup>th</sup> 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 14<sup>th</sup> 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 14<sup>th</sup> 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.

<sup>1</sup> 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](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>.

May 7, 2024  
Page 2 of 8

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](mailto: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

May 7, 2024  
Page 3 of 8

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  
American Federation of State County and Municipal Employees  
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  
Center for Popular Democracy  
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

May 7, 2024  
Page 4 of 8

Coalition for Asian American Children and Families (CACF)  
Coalition for Humane Immigrant Rights (CHIRLA)  
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

May 7, 2024  
Page 5 of 8

Georgia STAND UP  
GLSEN  
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 It Work Nevada  
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

May 7, 2024  
Page 6 of 8

MN8

MoCo Life 910, Inc

Movement Advancement Project

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

May 7, 2024  
Page 7 of 8

PFLAG National  
Philanthropy Northwest  
Pisgah Legal Services  
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  
SPLC Action Fund  
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 Opportunities Center of Michigan (ROC Michigan)  
The Restaurant Opportunities Center of Pennsylvania (ROC PA)

May 7, 2024  
Page 8 of 8

The Restaurant Opportunities Center United (ROC United)  
The Sikh Coalition  
The Workers Circle  
The Wright's Center, Inc.  
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 Institute YWCA of Queens  
YWCA USA

cc: Members, Full House