UNITED SIKHS Public Comment on U.S. Census Bureau, U.S. Department of Commerce, Proposed Rule: Residence Criteria and Restrictions on Demographic Questions

To: U.S. Census Bureau, U.S. Department of Commerce

Dated: November 1, 2026

Re: Docket USBC-2026-0628

Name: Proposed Residence Criteria and Proposed Regulations for Demographic Questions.

Rule: 15 C.F.R. Parts 60 and 70 Federal Register: 91 Fed. Reg. 57524 (Sept. 10, 2026)[1]

Docket No. 260903-0005; RIN 0607-AA75

Submitted by: UNITED SIKHS ICHRA JUSTICE CENTER

I. Introduction and requested action

UNITED SIKHS respectfully opposes the proposed regulations insofar as they would exclude certain residents from congressional apportionment based on immigration status and prohibit race-and-ethnicity questions on questionnaires used for population enumeration. UNITED SIKHS is also concerned that the proposed expansion of administrative-record use, without sufficient evidence concerning the accuracy and limitations of those records for the specific determinations contemplated, could produce incomplete or erroneous classifications and undermine confidence in the census.

The governing principle should be inclusion: count the people who actually reside in our communities, protect their confidential information, and collect the demographic evidence necessary to understand whether all communities receive fair treatment and effective public services.

The Fourteenth Amendment directs that Representatives be apportioned by "counting the whole number of persons in each State."[2] Congress likewise requires the President to transmit to Congress a statement showing the whole number of persons in each State, as ascertained under the decennial census.[3] These provisions speak of persons, not

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[1] Decennial Census of the Population of Americans; Proposed Residence Criteria and Proposed Regulations for Demographic Questions, 91 Fed. Reg. 57524, 57524–31 (Sept. 10, 2026).
[2] U.S. Const. amend. XIV, § 2.
[3] 2 U.S.C. § 2a(a) (requiring the President to transmit to Congress a statement showing the whole number of persons in each State, as ascertained under the decennial census); see also 13 U.S.C. § 141(b) (requiring the Secretary of Commerce to report to the President the tabulation of total population by the State for congressional apportionment).

merely citizens, voters, or lawful permanent residents. UNITED SIKHS objects to replacing that population-based command with a narrower, administrative judgment, about which residents count.[4]

We request that the Census Bureau:

1) Withdraw proposed § 60.4(b)'s categorical exclusion of foreign citizens who are neither U.S. citizens nor lawful permanent residents. As written, it also encompasses foreign citizens with lawful immigration statuses other than permanent residency, unless they are also U.S. citizens. The operative text provides no exception based on length of residence, employment, tax payments, family connections, or other community ties.

2) Remove immigration-lawfulness conditions from the general residence definition and retain an evidence-based usual-residence framework. UNITED SIKHS requests that the Bureau remove the proposed "lawfully" qualifiers from § 60.2 and separately withdraw the categorical immigration-status exclusion in § 60.4(b). These provisions present distinct concerns: § 60.2 makes lawful presence part of the proposed residence calculation, while § 60.4(b) separately excludes specified foreign citizens from the apportionment population. The Bureau should determine usual residence through reliable evidence of where people actually live and should not make citizenship or lawful permanent resident status a prerequisite to inclusion in the apportionment population.

3) The Bureau should preserve and improve a meaningful opportunity for voluntary Sikh self-identification. The proposed rule would remove the race-and-ethnicity write-in pathway through which Sikh respondents were separately identified and tabulated in the 2020 Census. Although the proposed rule does not expressly abolish the Sikh detailed classification code or prohibit all collection of Sikh demographic information from other sources, it does not identify an equivalent replacement for that decennial questionnaire pathway. The Bureau should preserve and improve a meaningful opportunity for voluntary Sikh self-identification through tested questionnaire design, clear respondent guidance, Punjabi-language assistance, and useful Sikh-specific public data.

4) Preserve meaningful Sikh self-identification, distinct coding, and useful public tabulations. UNITED SIKHS requests that the Bureau preserve meaningful Sikh self-identification, distinct coding, and useful public tabulations throughout the census process. The 2020 Census demonstrated the value of separately identifying and tabulating Sikh responses rather than subsuming them within a broader population category. Preserving that progress requires more than retaining an internal classification code: respondents must have a clear and effective opportunity to identify as Sikh; those responses must remain separately identifiable during data processing; and the resulting statistics must be made available in accessible and useful forms, consistent with applicable confidentiality protections. Accordingly, the Bureau should reconsider and withdraw the prohibition on race-and-ethnicity questions in proposed § 70.2(a), and explain how it will preserve a meaningful means of Sikh self-identification and distinct classification in the decennial census. The Bureau should also explain how it will continue to produce appropriate Sikh-specific tabulations, including "Sikh alone" and "Sikh alone or in any combination," and whether comparable identification and tabulation will remain available through the American Community Survey. Questionnaire design should allow respondents to report Sikh identity alongside other identities without losing the ability to identify and tabulate Sikh responses distinctly. The Bureau should support that opportunity through Punjabi-language guidance, community partnerships, and transparent quality-assurance procedures.

[4] Proposed 15 C.F.R. § 60.4(b), 91 Fed. Reg. at 57526–30.

5) Reconsider proposed § 70.3(b) through transparent analysis of both confidentiality and demographic-data utility, including its implications for detailed Sikh tabulations. UNITED SIKHS requests that the Bureau reconsider proposed § 70.3(b) through a transparent, product-specific analysis of confidentiality, population-count accuracy, and demographic-data utility. Our longstanding advocacy sought not merely recognition of a distinct Sikh code, but accessible and useful Sikh-specific public statistics. That objective expressly accommodates appropriate confidentiality safeguards. The Bureau should clarify the terms 'individual demographic data' and 'introducing uncertainty,' identify the publication decisions that would trigger the restriction, and demonstrate its implications for detailed Sikh tabulations. In particular, the Bureau should explain whether and how 'Sikh alone' and 'Sikh alone or in any combination' statistics would remain available at national, state, and appropriate local levels. The proposed text does not establish which such products would be affected, and that uncertainty should be resolved before adoption. UNITED SIKHS does not seek disclosure of identifiable respondent information or a relaxation of statutory confidentiality protections. We request a reasoned assessment of alternatives that preserve those protections and the accuracy of population totals without unnecessarily eliminating useful information about smaller communities. If the Bureau cannot demonstrate that proposed § 70.3(b) preserves these objectives, it should revise or withdraw the provision.

6) Conduct and publish additional testing and research before adopting consequential rule changes. UNITED SIKHS requests that, before finalizing the proposed changes to residence criteria, demographic collection, or reliance on administrative records, the Bureau conduct and publish appropriately designed testing and research sufficient to evaluate their likely effects. For the Sikh community, this work should examine questionnaire comprehension, Sikh write-in and multiple-identity reporting, Punjabi-language access, and the distinction between population undercount and failure to identify respondents as Sikh. These priorities build on the unresolved identification and usability concerns documented in our census advocacy record. The Bureau should also assess incorrect and missed record linkages, conflicting or outdated residence and immigration-status information, treatment of unmatched individuals, and potential participation effects in mixed-status households. Its descriptions of extensive administrative holdings and improved linkage technology do not substitute for published evidence of fitness for these particular decisions. Results should be released in a form that protects confidentiality while explaining research methods, subgroup coverage, limitations, error measures, and the consequences of alternative approaches. Where subgroup samples are insufficient to support reliable conclusions, the Bureau should disclose that limitation rather than infer that no adverse effect exists. The public should have a meaningful opportunity to review and comment on material findings before the Bureau makes final decisions.

7) Provide further time for public comment, if necessary, and accessible consultation, including Punjabi-language engagement, on these interrelated proposals. The comment period has already been extended through November 2, 2026; this request is for a further extension if the Bureau determines that the existing period does not permit meaningful public participation.

II. THE SIKH EXPERIENCE DEMONSTRATES WHY SEPARATE IDENTIFICATION MATTERS

UNITED SIKHS has worked for more than a decade to ensure that Sikh Americans are accurately represented in the decennial census. For Sikh and minority communities, an accurate total population count and meaningful demographic identification serve related but distinct purposes. The total population count informs congressional apportionment and other population-based decisions. Detailed demographic information helps government officials, researchers, and community organizations understand the presence, circumstances, and needs of particular communities and informs advocacy concerning public services, resource allocation, and civil-rights protections.

In announcing its 2020 census campaign, UNITED SIKHS connected census participation to congressional representation, federal funding, and efforts to address bullying, intimidation, and hate crimes.[5] These concerns have particular significance for Sikh Americans following September 11, 2001. As UNITED SIKHS explained, "After 9/11, the Sikh community experienced an increase in hate crimes, bullying and other forms of bias based discrimination."[6] Accurate census identification cannot itself prevent discrimination, but it can help make the affected community's presence and needs visible rather than obscuring them within broader population categories. UNITED SIKHS' census advocacy thus reflects the importance of both being counted but also being distinctly identified.

Leading up to the 2010 Census, UNITED SIKHS engaged in community education, outreach, petitions, congressional advocacy, and direct engagement with the Census Bureau to address the undercounting and lack of distinct identification of Sikh Americans. In 2009, the organization announced that it was "filing a petition with the national US Census Bureau requesting proper tabulation of Sikhs when they mark 'Other' and write in 'Sikh,'" while organizing Sikh Complete Count Committees to encourage participation.[7] UNITED SIKHS continued to raise census recognition through its annual Sikh Summit and engagement with policymakers, linking the absence of distinct census identification to broader concerns about discrimination and the community's visibility. This history demonstrates that meaningful representation requires both a mechanism for accurate self-identification and sustained community engagement.

The 2020 Census marked an important step forward in the distinct identification of Sikh Americans. The Census Bureau's detailed coding and tabulation process made it possible to identify Sikh responses as a distinct detailed population group, rather than subsume those responses within a broader category. This did not mean that Sikh Americans had previously been excluded from the total population count; it meant that their distinct self-identification had not been comparably reflected in the detailed published statistics. This identification depended on the race question's write-in response process, rather than a separate Sikh checkbox.[8]

For Sikh Americans, this distinction makes census visibility more than a symbolic concern: inclusion in the overall population count does not necessarily make the community identifiable in the resulting data. Distinct identification helps provide a foundation for recognizing the community's needs and advocating for appropriate resources and protections, a particularly important objective for a community that has confronted post-9/11 bias and discrimination.

The distinction matters: a person could identify as Sikh through the write-in process, allowing the Census Bureau to classify and tabulate Sikh responses separately rather than subsuming them within a broader category.[9]

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[5] UNITED SIKHS, "*Historic Victory: Sikhs to Be Counted as Separate Ethnic Group in U.S. Census 2020*" (Jan. 21, 2020), https://unitedsikhs.org/historic-victory-sikhs-to-be-counted-as-separate-ethnic-group-in-u-s-census-2020/.
[6] *See* UNITED SIKHS, "*Sikh Summit 2011 in Review*" (Apr. 19, 2011), https://unitedsikhs.org/sikh-summit-2011-in-review-united-sikhs-legal-advocacy-since-our-may-meeting-with-over-30-representatives-and-5-government-agencies/.
[7] See UNITED SIKHS, "*Sikhs Advocate to Be Counted Separately by the US Census Bureau*" (Aug. 20, 2009), https://unitedsikhs.org/sikhs-advocate-to-be-counted-separately-by-the-us-census-bureau/.
[8] See UNITED SIKHS, *Historic Victory*, *supra* note 5.
[9] U.S. Census Bureau, 2020 Census Demographic and Housing Characteristics File (DHC) Technical Documentation, Appendix. F, at F-15 (Apr. 2023), https://www2.census.gov/programs-surveys/decennial/2020/technical-documentation/complete-tech-docs/demographic-and-housing-characteristics-file-and-demographic-profile/2020census-demographic-and-housing-characteristics-file-and-demographic-profile-techdoc.pdf
(listing Sikh under code 4305).

The Census Bureau's published 2020 data reported 48,321 people identifying as "Sikh alone" and 70,697 people identifying as "Sikh alone or in any combination." These are two overlapping measures, not figures that should be added together. "Sikh alone" refers to respondents identified as Sikh and no other category, while "Sikh alone or in any combination" includes those identifying as Sikh either alone or together with one or more other groups. These figures demonstrate the value of collecting and tabulating detailed self-identification data. They should not, however, be understood as a definitive count of every Sikh American: they reflect responses to Census questions and the Bureau's classification and tabulation methodology. The Bureau also applies statistical noise to detailed census data to protect confidentiality.[10]

The proposed regulation would reverse this progress in practical effect. Proposed 15 C.F.R. § 70.2(a) would prohibit questions concerning race and ethnicity on the decennial census short-form questionnaire and other questionnaires used for population enumeration.

The proposed regulation could reverse this progress in practical effect. Proposed 15 C.F.R. § 70.2(a) would prohibit questions concerning race, ethnicity, or sexual orientation on the decennial census short-form questionnaire and any questionnaire used for population enumeration. The 2020 Census used the race-question write-in process to collect the responses that enabled the Bureau to identify and tabulate Sikh Americans as a distinct detailed population group. The proposed rule does not expressly abolish the Sikh detailed classification code. However, retaining a classification code without an effective means of collecting corresponding self-identification responses through the decennial enumeration process would not preserve the practical value of that classification. The Bureau should explain what equivalent collection method, if any, it intends to use.

Retaining Sikh as a detailed classification code, without a corresponding means of collecting Sikh self-identification responses through the decennial enumeration process, would not preserve the practical value of that classification.[11]

The proposed rule's provisions concerning other demographic data sources do not adequately address this concern. Proposed § 70.4 preserves the ability to collect demographic information through the American Community Survey and other surveys not used for population enumeration, as well as through information obtained from other sources. But those provisions do not guarantee that Sikh Americans will have an equivalent opportunity for voluntary self-identification or that the Census Bureau will produce reliable, comparable Sikh-specific population data through those alternative sources. In addition, proposed § 70.3(b) addresses the publication of individual demographic data where doing so would necessitate introducing uncertainty into population count data at the national or state level. The Bureau should clarify how this provision would affect the availability and publication of detailed Sikh population data.[12]

For Sikh Americans, separate identification is not merely a matter of statistical preference. Accurate data inform civil-rights monitoring, public policy, government planning, resource allocation, and the ability of communities to demonstrate their needs. When a population cannot reliably identify itself in the nation's principal population enumeration, its experiences and needs risk becoming invisible within broader categories. The Census Bureau should therefore preserve a meaningful mechanism for Sikh self-identification in the decennial census and ensure

[10] Rachel Marks & Matthew Spence, *Producing Statistics for Our Nation's Myriad Detailed Racial/Ethnic Communities 6–8*, 17 (U.S. Census Bureau, Fall 2023 Nat'l Advisory Comm. Meeting, Nov. 17, 2023), https://www2.census.gov/about/partners/cac/nac/meetings/2023-11/presentation-producing-statistics-detailed-racial-ethnic-communities.pdf explaining that the 2020 Census included Sikh as a distinct detailed population group within the Asian racial category, rather than tabulating Sikh responses as Asian Indian as in 2010, and that preserving distinct identification makes the community's size and geographic distribution visible, providing a demographic foundation for assessing community needs and advocating for responsive services and civil rights protections; U.S. Census Bureau, Detailed DHC-A, *supra* note 4, under "About the Detailed DHC-A."

[11] Proposed Rule, *supra* note 1, at 57,528.

[12] Proposed Rule, *supra* note 1, at 57,531 (proposed §§ 70.3(b), 70.4).

that detailed Sikh population data can continue to be collected, tabulated, and made publicly available subject to appropriate confidentiality protections.

III. Constitutional protections attach to persons, not only preferred immigration categories

A. Constitutional personhood does not depend on citizenship or permanent residency

The proposed exclusion must be evaluated against the Constitution's protections for people within U.S. jurisdiction.

In Plyler v. Doe, 457 U.S. 202 (1982), the Supreme Court held that undocumented school-age children are "persons" within the jurisdiction of a state for purposes of the Fourteenth Amendment's Equal Protection Clause. The Court's analysis confirms that undocumented status does not, by itself, remove an individual from the constitutional category of persons. The Fifth Amendment's Due Process Clause likewise constrains federal action and has been applied to noncitizens physically present in the United States, although the scope of constitutional protections may depend on the particular right and context.

The distinction between federal and state obligations matters. The Fourteenth Amendment's Equal Protection Clause directly constrains state action; federal action is subject to the Fifth Amendment's Due Process Clause, which includes an equal-protection component. UNITED SIKHS does not contend that every constitutional right applies identically in every immigration context. Its narrower point is that noncitizenship or lack of lawful permanent resident status does not, by itself, eliminate constitutional personhood.[13]

The distinction between federal and state obligations matters. The Fourteenth Amendment's Equal Protection Clause directly constrains states; federal action is subject to the Fifth Amendment, including its equal-protection component.[14] We do not suggest that every immigration classification is forbidden or that every constitutional right applies identically in every immigration context. We do insist that lack of citizenship or permanent residency does not remove a resident from constitutional personhood.

These constitutional principles do not, standing alone, resolve the meaning of the apportionment provisions or establish that every person physically present must be included in the apportionment population. They do, however, caution against treating immigration classification as a substitute for analyzing the constitutional text and statutory authority governing the census. The Bureau should independently explain why its proposed distinctions are consistent with the command to count the "whole number of persons."

B. Representation is not identical to voting eligibility

The apportionment language distinguishes persons from citizens: Section 2 of the Fourteenth Amendment uses "persons" in its population-count command and separately refers to citizens when addressing voting rights. UNITED SIKHS submits that this textual distinction cannot be disregarded through an administrative definition of allegiance.

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[13] *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). *Zadvydas* establishes the broad constitutional principle that noncitizens physically present in the United States are protected by the Fifth Amendment's Due Process Clause, regardless of whether their presence is lawful, unlawful, temporary, or permanent. 533 U.S. at 693. The Court, however, addressed this principle in the specific context of prolonged immigration detention following final orders of removal. Id. at 682, 690–91. The decision did not address criminal pretrial detention or bond determinations, nor did it establish an automatic right to release from custody. Its relevance here is limited to the applicability of constitutional due process protections to noncitizens, not the outcome of any particular pretrial release determination.

[14] *Bolling v. Sharpe*, 347 U.S. 497, 499–500 (1954).

Illustrative example: A household includes a U.S. citizen child, one parent who is a lawful permanent resident, and another parent who holds a non-permanent lawful immigration status. All three live at the same address and are part of the same household. Under proposed § 60.4, the child and permanent-resident parent would be eligible for inclusion in the apportionment population, while the other parent would be excluded because of immigration classification, notwithstanding that all three actually reside in the same community. This illustrates the distinction between determining where a person lives and determining whether that person is eligible to be included in the apportionment count.

C. The Cited Census Decisions Do Not Establish The Proposed Categorical Exclusion

In *Franklin v. Massachusetts*, the Supreme Court upheld the Secretary of Commerce's decision to include certain federal employees temporarily stationed overseas in their home states' population counts for congressional apportionment. The Court recognized that "usual residence" may encompass more than physical presence and may include an element of "allegiance or enduring tie to a place.[15]" The Census Bureau invokes *Franklin v. Massachusetts* for the proposition that "usual residence" may extend beyond mere physical presence and that the Secretary has discretion to establish and modify residence criteria consistent with the Constitution.[16] In *Franklin*, the Supreme Court upheld the inclusion of certain federal employees temporarily stationed overseas in their home states' apportionment counts because they retained enduring ties to those states.[17] Although *Franklin* recognizes administrative discretion and the relevance of allegiance and enduring ties in determining usual residence, it did not consider whether undocumented immigrants or other noncitizens whose immigration status is less durable than lawful permanent residency may be excluded despite actually residing within a state. Accordingly, *Franklin* provides a framework the Bureau may invoke, but it does not itself decide or compel the proposed immigration-status distinction. UNITED SIKHS objects to treating *Franklin* as dispositive authority for that exclusion and requests that the Bureau independently explain the constitutional and statutory basis for its proposed distinction.

The Bureau also relies on the broad discretion afforded to Congress and the Secretary of Commerce in conducting the census. It cites *Wisconsin v. City of New York*,[18] for the proposition that the federal government possesses broad discretion over census methodology.[19] That discretion, however, is not unlimited. The Supreme Court explained that a census decision must bear a "reasonable relationship to the accomplishment of an actual enumeration of the population, keeping in mind the constitutional purpose of the census."[20] The Supreme Court has confirmed that, although the Census Act grants the Secretary broad discretion in conducting the decennial census, that discretion is not unbounded. The Secretary's census-related decisions remain subject to judicial review and the requirements of reasoned agency decision-making.[21]

The Bureau must, therefore, explain how excluding people who actually reside within a state, solely because they lack citizenship or lawful permanent resident status, bears a reasonable relationship to an accurate enumeration and is consistent with the governing statutory requirements. A general invocation of administrative discretion does not substitute for that explanation.

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[15] *Franklin v. Massachusetts*, 505 U.S. 788, 803–06 (1992).
[16] 91 Fed. Reg. at 57525–26.
[17] *Franklin,* 505 U.S. at 803–06.
[18] *Wisconsin v. City of New York,* 517 U.S. 1, 19 (1996).
[19] 91 Fed. Reg. at 57525.
[20] *Wisconsin,* 517 U.S. at 20.
[21] *Department of Commerce v. New York*, 588 U.S. 752, 768–70, 773–74 (2019).

The Supreme Court's disposition of the 2020 apportionment litigation did not resolve the constitutional or statutory legality of excluding undocumented residents from the congressional apportionment base. *In New York v. Trump*,[22] a three-judge district court invalidated the challenged policy on statutory grounds. In *City of San Jose v. Trump,*[23] a three-judge district court found both constitutional and statutory violations. Both judgments were subsequently vacated following the Supreme Court's jurisdictional ruling, not a rejection of the district courts' substantive reasoning.

In *Trump v. New York*,[24] the Supreme Court concluded that standing had not been shown and the dispute was not ripe, expressly stating: "We express no view on the merits of the constitutional and related statutory claims presented." Accordingly, that decision neither authorizes immigration-status-based exclusions nor establishes a Supreme Court merits holding prohibiting the challenged policy. Moreover, the 2020 policy concerning undocumented residents did not present the full scope of the exclusions now proposed for foreign citizens who lack U.S. citizenship or lawful permanent residency.

UNITED SIKHS therefore urges the Bureau to establish independently the constitutional and statutory authority for its proposed exclusions and address the substantial objections to them, rather than treat existing Supreme Court precedent as having settled the question in the Bureau's favor.

IV. The proposal's asserted objectives conflict with its likely operation

A. "A more complete count" versus categorical exclusion

The Bureau states that its objective is an accurate population count, yet proposed § 60.4 would exclude all foreign citizens who are neither U.S. citizens nor lawful permanent residents. That reaches beyond undocumented residents to people with other lawful statuses.

Illustrative example: A lawfully present worker rents a home, works locally, and lives with family throughout the census reference period. If that person lacks permanent residency, the proposed rule would exclude them from apportionment regardless of their actual residence. The proposed rule would make immigration classification dispositive of apportionment eligibility even where the person's actual residence is otherwise established.

The Bureau should explain how subtracting established residents improves the accuracy of a population-based apportionment count rather than merely redefining the population downward.

B. "Enduring ties" versus an inflexible immigration-status proxy

Proposed § 60.4 distinguishes between foreign citizens who are U.S. citizens or lawful permanent residents and all other foreign citizens. The practical effect is to make immigration classification, rather than an individualized assessment of actual residence or community attachment, determinative of eligibility for inclusion in the apportionment population. The Bureau should explain why lawful permanent resident status is an appropriate proxy for the connection to a state relevant to apportionment, and why other forms of lawful presence and established residence are categorically insufficient.

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[22] *New York v. Trump,* 485 F. Supp. 3d 422 (S.D.N.Y. 2020), vacated and remanded, *Trump v. New York,* 592 U.S. 125 (2020) (per curiam).
[23] *City of San Jose v. Trump,* 497 F. Supp. 3d 680 (N.D. Cal. 2020), vacated and remanded, *Trump v. City of San Jose,* 592 U.S. 1160 (2020) (per curiam).
[24] *Trump v. New York,* 592 U.S. 125, 130–31 (2020) (per curiam).

Illustrative example: Compare a person who has lived in the same community for several years in a non-permanent lawful immigration status with a person who has only recently obtained lawful permanent resident status. This comparison does not suggest that their immigration rights are identical. It illustrates that immigration classification and the factual duration or stability of a person's residence are different questions.

The Bureau should assess actual usual residence rather than presume that every non-permanent status means an insufficient connection to the community. It should also directly address the distinction between *Franklin's* treatment of overseas federal personnel with enduring ties to a state and the proposed categorical exclusion of people physically residing within a state.

C. "Reduced burden and improved response" versus a potentially chilling legal-status question

The Bureau argues that excluding questions about race, ethnicity, and sexual orientation from questionnaires used for population enumeration would reduce respondent burden and disclosure risk, and that reduced burden is expected to improve response rates. At the same time, the Bureau invites public comment on whether a legal-status question should be included on the short-form decennial census questionnaire.

These proposals raise a question the Bureau should address before finalizing the rule: reducing the number of questions does not necessarily improve participation if a remaining or newly added question causes some households to hesitate, provide incomplete responses, or decline to participate. The Bureau should evaluate the combined effects of the proposed questionnaire changes rather than assess the burden-reduction rationale in isolation.

Census Bureau researchers previously modeled the possible effects of adding a citizenship question to the 2020 Census by comparing response patterns in the 2010 American Community Survey, which included a citizenship question, with the 2010 Census, which did not. That research predicted that adding a citizenship question could reduce self-response disproportionately among households potentially containing noncitizens, increase nonresponse follow-up costs, and reduce the quality of the population count. The findings were modeled estimates, not observed outcomes from a 2020 Census citizenship-question implementation.

Census Bureau researchers previously estimated that adding a citizenship question could reduce self-response disproportionately among households potentially containing noncitizens, increasing collection costs and reducing the quality of the population count. That estimate was a modeled prediction based on comparisons of response patterns in the 2010 American Community Survey, which included a citizenship question, and the 2010 Census, which did not. It was not a measured outcome of the 2020 Census.[25]

The Bureau's 2019 Census Test provides additional, but not conclusive, evidence. The test compared questionnaire versions with and without a citizenship question. Its Executive Summary reported overall self-response rates of 51.5 percent for the version containing the citizenship question and 52.0 percent for the version without it, a difference that was not statistically significant. However, the report identified statistically significant differences in certain geographic areas and subgroups, including tracts with higher proportions of noncitizens or Hispanic residents, tracts designated to receive bilingual materials, and housing units within the Los Angeles and New York Regional Census Center boundaries. It also reported lower self-response in tracts with between 5.0 and 20.0 percent Asian residents.

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[25] J. David Brown et al., Predicting the Effect of Adding a Citizenship Question to the 2020 Census (U.S. Census Bureau, Center for Economic Studies Working Paper No. CES-19-18, June 2019), https://www.census.gov/library/working-papers/2019/adrm/ces-wp-19-18.html.

These findings concern geographic and demographic groupings; they should not be characterized as Sikh-specific findings or as direct measurements of individual respondents' immigration status.[26]

The test also found a higher rate of incomplete internet responses when the citizenship question was included. Although the Bureau concluded that its planned Nonresponse Followup staffing could accommodate the subgroup differences observed in the test, the test did not include the full Nonresponse Followup operation. It therefore did not establish the ultimate effect of a citizenship question on the completeness and accuracy of a full decennial census.[27]

A 2024 Census Bureau working paper by J. David Brown and Misty L. Heggeness further examined the 2019 test by linking response information to independently constructed administrative data. The authors found substantial variation in response effects among households containing Hispanic residents, naturalized citizens, and noncitizens. The largest response declines occurred among households containing noncitizens ineligible for a Social Security number. They also identified increased omissions from household rosters and more internet questionnaire break-offs. These findings underscore why the Census Bureau should examine household-level and subgroup effects rather than rely exclusively on an overall response-rate average.[28]

A citizenship question and a legal-status question are not identical. The cited research does not establish the precise effect of the legal-status question contemplated by the proposed rule. It does, however, provide a basis for testing potential response effects rather than assuming that a legal-status question would be harmless.

Illustrative scenario: One adult's concern about answering a legal-status question in a mixed-status household could affect the household's response as a whole, including the reporting of U.S. citizen children. This is a potential effect requiring research, not a claim that the cited studies measured this precise circumstance.

UNITED SIKHS requests that the Bureau conduct and publish question-specific testing, including analysis of household-level effects and relevant subgroups, before deciding whether to introduce a legal-status question. The Bureau should provide an opportunity for meaningful public review of the findings before adopting a final rule.

D. “Privacy protection” versus expanded linkage of sensitive records

The proposal contemplates reliance on tax-return information, immigration-related records, other governmental records, and third-party commercial data to support census operations and determine individuals’ residence or legal status.[29]

In particular, the Census Bureau is considering utilizing its access to administrative records to determine an individual’s legal status.[30] Administrative data can support a census, but expanded linkage is not itself proof of accurate classification or public trust.

The Bureau should disclose and evaluate:

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[26] U.S. Census Bureau, Decennial Statistical Studies Division & American Community Survey Office, *2019 Census Test Report,* Executive Summary, Version 1.0 (Revised) (Jan. 3, 2020), https://www.census.gov/programs-surveys/decennial-census/decade/2020/planning-management/plan/testing-activities/2019-census-test/2019-census-test-report.html.

[27] *2019 Census Test Report, supra note 28.*

supra note 28.

[28] J. David Brown & Misty L. Heggeness, *Citizenship Question Effects on Household Survey Response* (U.S. Census Bureau, Center for Economic Studies Working Paper No. CES-24-31, June 2024), https://www.census.gov/library/working-papers/2024/adrm/CES-WP-24-31.html.

[29] 91 Fed. Reg. at 57526–27.

[30] 91 Fed. Reg. at 57526.

1. How conflicting or outdated immigration records would be reconciled.
2. How name variations, transliteration, changed addresses, and household complexity would affect matching.
3. How people lacking a reliable record match would be treated.
4. What safeguards would prevent statistical classifications from becoming immigration-enforcement tools.
5. How classification errors would be independently audited without exposing individuals.
6. How the Bureau will account for people whose relevant information is absent from, or incorrectly represented in, administrative records.

The proposed rule does not itself authorize disclosure of census information to immigration enforcement authorities. The Bureau acknowledges its confidentiality obligations under Title 13, including the prohibition on publishing information that identifies a particular respondent.[31]

The Bureau further states that it will obtain and use other agencies' administrative records consistently with applicable statutory authorities and data-sharing arrangements, specifically identifying restrictions on IRS returns and return information under 26 U.S.C. § 6103(j)(1), (p)(4), and 26 C.F.R. § 301.6103(j)(1)-1.[32]

These source-specific restrictions matter: Title 13's confidentiality provisions do not automatically replace the separate legal rules governing every administrative source. UNITED SIKHS requests clear, accessible explanations of the protections applicable to each source and the safeguards governing the proposed linkage.

E. "Colorblindness" versus the evidence needed to identify unequal treatment

The proposal emphasizes that the decennial census's constitutional purpose is to enumerate the population for apportionment and invokes the view that certain demographic characteristics are not necessary to that enumeration. The Bureau also discusses a colorblind approach to the collection of demographic information. UNITED SIKHS disagrees with the suggestion that eliminating the collection of race-and-ethnicity information is necessary to conduct an accurate population count. Collecting voluntary demographic information does not, by itself, assign unequal rights or require unequal treatment. Rather, such information can help identify whether communities are being adequately served and whether disparities warrant further examination.

Our advocacy sought visibility because aggregated data could not adequately identify Sikh community needs. The 2020 coding achievement enabled a distinct population to become statistically identifiable. Removing the collection pathway would impede evaluation of that population rather than establish that unequal treatment no longer exists.

Illustrative example: A community organization seeking to evaluate Punjabi-language service needs cannot assume that all Asian Indian residents are Punjabi-speaking or Sikh, or that all Sikhs share one national-origin response. Broad categories cannot automatically substitute for the distinct identities and language information relevant to a particular service.

Sikh identity must remain voluntary and self-reported. The Bureau should neither compel religious disclosure nor assume that every Punjabi or Indian respondent is Sikh. But respecting that principle does not require eliminating the demographic response pathway used in 2020.

F. "Available elsewhere" versus an unspecified substitute

[31] See 91 Fed. Reg. at 57527, 57529 n.16.
[32] *Id.* at 57529 n.17.

The race question's write-in response process provided the questionnaire-based opportunity through which respondents could identify as Sikh in the 2020 Census. The proposal would remove that questionnaire pathway, while appearing to preserve the ability to collect demographic information through the American Community Survey, other non-enumeration surveys, and administrative records. That limitation is important: the rule would not ban every source of Sikh demographic information entirely.

However, permission to use another source is not a commitment to produce equivalent Sikh-specific data. The Bureau should identify the actual replacement, its coverage, geographical usefulness, error characteristics, publication schedule, and ability to preserve self-identification before claiming that community needs remain satisfied.

Proposed § 70.3(b) would prohibit the Bureau from disclosing or publishing individual demographic data if that disclosure or publication would necessitate introducing uncertainty into population-count data at the national or state level. The provision does not expressly prohibit all detailed demographic tabulations. Its application to particular Sikh-specific products, however, is not explained in the proposed text. The Bureau should identify the kinds of products that could be affected and explain how it would distinguish disclosure that necessitates uncertainty in population totals from publication of detailed demographic statistics that can be protected through other disclosure-avoidance methods.[33]

The provision should not be read as a blanket prohibition on all demographic data or all Sikh tabulations: its publication restriction is conditional.

Nevertheless, the restriction's scope and practical application are insufficiently clear. The Bureau should explain whether and how it could affect detailed "Sikh alone" and "Sikh alone or in any combination" tabulations, the use of disclosure avoidance methods, and the publication of demographic information whose release would not require introducing uncertainty into national or state population counts.[34] The Bureau should also identify and explain the safeguards it considers sufficient to protect confidentiality while preserving useful detailed demographic statistics.

V. The proposed residence formula requires substantial reconsideration and clarification

Proposed § 60.2 would define "usual residence" as the residence at which a person has lawfully spent the greatest number of days during the January 3–April 1 census enumeration period. A day would qualify after at least one hour of physical and lawful presence, and the same date could count toward more than one residence.

This framework requires clear, accessible explanations of the reference period, the one-hour threshold, overlapping residence days, and the meaning of "lawful" presence. UNITED SIKHS asks the Bureau to test whether its instructions, Punjabi-language materials, and community assistance enable respondents to understand and apply these concepts accurately. Such comprehension testing would serve as a safeguard against confusion and inconsistent reporting.

The proposal further states that usual residence "should be consistent with, and evidenced by," tax records, including tax returns and W-2 forms. The Bureau's accompanying explanation indicates that its reliance on administrative records may vary depending on the particular data element and the purpose, timing, and reliability of the records. The Bureau should explain how it will weigh tax records against other evidence when those records are unavailable, outdated, or inconsistent with a person's actual living arrangements. It should also identify what alternative evidence will be considered for people who do not file tax returns or whose tax records do not reflect where they actually live.

[33] See 91 Fed. Reg. at 57531 (proposed § 70.3(b)).
[34] *Id*. at 57527, 57531 (discussing disclosure avoidance and setting forth proposed § 70.3(b)).

Proposed § 60.3 separately addresses dependents, distinguishing those with a consistent usual residence apart from their providers from other dependents counted at a provider's residence. Proposed § 60.8 establishes rules for births and deaths around Census Day. These provisions should be evaluated together with the general residence formula, rather than assumed to resolve every household circumstance.

Proposed §§ 60.9 and 60.10 establish additional rules for particular circumstances. Section 60.9 provides that people confined at correctional or detention facilities, including juvenile facilities, are counted at the facility. Section 60.10 provides that people at transitory locations, including RV parks, campgrounds, marinas, hotels, and motels, are counted at their usual residence under § 60.2 or, if they have no usual residence, at the transitory location. The Bureau should explain how these special rules interact with the general residence formula and how it will ensure consistent treatment of people whose living arrangements are temporary, unstable, or difficult to document.

The Bureau should test and explain how the proposed framework would apply in situations such as the following:

- A person who moves shortly before Census Day. A cumulative-days formula could favor the former address even though the person has permanently moved. The Bureau should explain how it would reconcile the reference-period calculation with the person's residence as of April 1.

- A person who spends time at multiple residences. Proposed § 60.2(b) permits the same day to count toward more than one residence when the person spends at least one hour physically and lawfully present at each. The Bureau should explain how it will apply the greatest-number-of-days test when a person has overlapping residence days, how it will resolve equal or closely divided day counts, and what evidence will be used to determine the person's usual residence.

- A person staying with relatives without a lease or independently filed tax return. The absence of conventional documentation does not establish that a person is absent from the population. The Bureau should explain how it would evaluate residence for people who do not file returns or whose tax records do not reflect their actual living arrangements.

- A dependent who divides time between households. The Bureau should clarify how § 60.3 interacts with the general day-counting formula and how it would resolve competing household reports without omitting or double-counting the dependent.

- A newborn whose parent or guardian has multiple residences. Although § 60.8 expressly addresses newborns, the Bureau should test how that provision would operate when a parent's or guardian's residence history is divided, changing, or otherwise difficult to determine.

- A person experiencing housing instability. The Bureau should explain how it would determine usual residence for people who lack a conventional lease, current tax records, or a stable address. This should include people who temporarily stay with relatives or friends, move among shelters or other temporary accommodations, or spend time at transitory locations. The Bureau should explain how § 60.2 would interact with the special rule in § 60.10 and what alternative evidence it would consider when conventional records do not accurately reflect a person's living arrangements.

These examples identify implementation questions requiring testing and clarification; they are not assertions about documented individual cases. Before adopting the formula, the Bureau should publish its testing methods and findings, provide clear procedures for addressing these circumstances, and explain why the proposed approach would produce more accurate and consistent residence determinations than reasonable alternatives.

VI. The Bureau must provide a reasoned explanation of the proposed changes and their foreseeable consequences

The Administrative Procedure Act provides for review of agency action that is arbitrary, capricious, contrary to law, or contrary to constitutional rights.[35] In *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.* the Supreme Court held that an agency must examine relevant data and articulate a satisfactory explanation for its action, including a rational connection between the facts found and the choice made.[36]

The requirement of reasoned agency decision-making remains applicable after the Court's decision in *Loper Bright*.[37] In that decision, the Supreme Court explained that courts must ensure an agency has engaged in "reasoned decisionmaking" within the boundaries of its delegated authority, expressly citing *State Farm*.

UNITED SIKHS submits that the Bureau must adequately address the evidence, foreseeable implementation problems, alternatives, and consequences of these proposals before adopting a final rule.

The record should specifically address:

1. The loss of direct demographic self-identification and the implications for detailed groups such as Sikhs.
2. The distinction between an overall population undercount and failure to identify a person's detailed group.
3. The effect of immigration-status questions and exclusions on mixed-status household participation.
4. The coverage and classification errors associated with administrative records.

5. The foreseeable consequences for communities, public institutions, and government planning if detailed demographic information becomes less complete, less comparable, or less accessible.

6. Alternatives that preserve confidentiality without categorically eliminating race-and-ethnicity questions.
7. The practical consequences for state and local planning and representation.
8. The implications of proposed § 70.3(b) for detailed demographic tabulations and the availability of useful public data.

The proposal states that it has no federalism implications and characterizes certain effects on small entities as indirect. At the same time, it proposes changing the population used for congressional apportionment and restricting the collection of demographic information through questionnaires used for population enumeration. UNITED SIKHS requests that the Bureau explain how its conclusions account for the foreseeable effects of these changes on state and local planning, public institutions, community organizations, and entities that rely on detailed demographic information.

UNITED SIKHS does not contend that the federalism or small entity analysis, standing alone, resolves the legal validity of the proposed rule. Rather, the Bureau should provide a reasoned explanation of its conclusions and address material consequences identified in the public comments.

VII. Recommendations responsive to American and Sikh community needs

[35] 5 U.S.C. § 706(2)(A)–(B).
[36] *Motor Vehicle Mfrs. Ass'n of the U.S., Inc. v. State Farm Mut. Auto. Ins. Co.,* 463 U.S. 29, 43 (1983).
[37] *Loper Bright Enters. v. Raimondo,* 603 U.S. 369, 395 (2024).

UNITED SIKHS requests an approach that protects accurate enumeration and useful, confidential demographic evidence together.

For all communities, the Bureau should:

1. Count usual residents for apportionment without the proposed categorical immigration status exclusions.
2. Preserve a clear, tested opportunity for voluntary demographic self-identification.

3. Explain and maintain the statutory confidentiality protections governing census information, including safeguards against unauthorized disclosure or nonstatistical use, and clearly distinguish those protections from the separate restrictions governing administrative records obtained from other agencies.

4. Publish administrative-data quality assessments and subgroup response testing.
5. Provide meaningful community consultation and accessible participation materials.
6. Explain how its residence rules will address dependents, newborns, multiple residences, housing instability, and people without conventional tax or lease records.

For Sikh Americans, the Bureau should:

7. Preserve the existing distinct Sikh detailed classification and explain how the Bureau will continue to collect and separately identify Sikh self-identification responses if race-and-ethnicity questions are removed from enumeration questionnaires.

8. Test a visible Sikh example or equivalent prompt that improves self-identification without imposing an identity.

9. Explain how respondents may identify as Sikh alongside other identities.

10. Explain whether and how the Bureau will continue to produce useful “Sikh alone” and “Sikh alone or in any combination” tabulations, at national, state, and appropriate local levels, subject to applicable confidentiality and disclosure-avoidance protections.

11. Explain how proposed § 70.3(b) will be applied to detailed Sikh data and what disclosure-avoidance methods will preserve useful publication.
12. Provide sustained Punjabi-language education and assistance.
13. Establish partnerships with gurdwaras, community organizations, students, and trusted messengers.
14. Research the causes of 2020 under-identification and distinguish them from population undercount.

15. Publish a written explanation of the Bureau's proposed approach to Sikh identification, detailed coding, quality assurance, and publication, including how it will preserve meaningful self-identification if the proposed restrictions are adopted.

VIII. Conclusion

The census should measure the population that exists, not a narrower population selected through an administrative judgment about belonging.

People who live within U.S. jurisdiction remain persons protected by constitutional guarantees, even when citizenship, voting eligibility, immigration status, or access to particular benefits differ. The Constitution’s

apportionment command must be interpreted on its own terms, not replaced by a presumption that permanent immigration status is the measure of whether a resident counts.

The recognition of "Sikh" as a distinct detailed population group in the 2020 Census marked important progress from statistical invisibility toward meaningful self-identification.

The recognition of "Sikh" as a distinct detailed population group in the 2020 Census marked important progress from limited statistical visibility toward meaningful self-identification. The Bureau's separate coding and tabulation of Sikh responses enabled it to identify and publish Sikh-specific results rather than subsume those responses within a broader category. This improved the specificity of the available census statistics and made respondents' self-reported identities more visible in the resulting data. These documented results support the goals of accurate classification, meaningful self-identification, and useful demographic information, without attributing to the Bureau an official rationale beyond the available record.

The Bureau should build on that progress by investigating remaining identification gaps, improving the response pathway, and strengthening public trust. The proposed prohibition on race-and-ethnicity questions would remove the race-question write-in opportunity through which Sikh respondents could identify themselves in the 2020 Census. Although the proposal would neither erase the published 2020 results nor expressly abolish the Sikh detailed classification code, eliminating that collection mechanism without an equally effective replacement would constitute a practical rollback. Retaining a classification code is not enough if respondents lack a meaningful opportunity to identify themselves or if useful group-specific statistics are no longer produced. Before adopting these changes, the Bureau should explain how it would preserve accurate self-identification, distinct classification, and accessible demographic results. If it cannot demonstrate that those benefits would be maintained, it should acknowledge the likely loss, evaluate alternatives, and explain why that result is justified.

For these reasons, UNITED SIKHS respectfully requests withdrawal or substantial revision of proposed Parts 60 and 70, renewed public consultation, and an evidence-based approach that counts residents accurately while protecting confidentiality and the demographic information communities need.

Respectfully submitted,

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