

# Decennial Census and Apportionment: Frequently Asked Questions

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Every 10 years, the U.S. Constitution [requires](#) administration of a national census—an “actual Enumeration”—conducted “in such Manner as [Congress] shall by Law direct.” The next decennial census is scheduled to be conducted in 2030. At times, Congress has considered legislation to address decennial census operations. In the 118<sup>th</sup> Congress, for example, [H.R. 7109](#) passed the House and is one of several bills introduced to require a citizenship question on the decennial census and to base apportionment of House seats on the U.S. citizen population (see also [H.R. 6942](#) and [S. 3659](#)). Another introduced bill, [H.R. 7911](#), would prohibit inclusion of a citizenship question on the decennial census.

This Insight addresses common questions regarding decennial census population counts and their role in congressional apportionment. For further information, contact the authors or see additional CRS products related to apportionment and to the U.S. Bureau of the Census (Census Bureau), located in the U.S. Department of Commerce (Commerce Department), which conducts the decennial census, among other efforts.

## What functions does the decennial census perform?

Under the Constitution, the decennial census is the basis for [apportioning](#) (or dividing) seats in the House of Representatives among states. Its data are also used, among other purposes, to [help determine](#) funding [distribution](#) across hundreds of federal programs and to inform policymakers about key demographic changes.

## What qualifies as an “actual Enumeration”?

The Supreme Court has [explained](#) that “enumeration” refers to a counting process but does not provide “methodological details,” although it also [concluded](#) that the framers intended the phrase “actual Enumeration” to be the substantive equivalent of “number of inhabitants.” Congress thus has “virtually unlimited” [discretion](#) to determine *how* the count of inhabitants is carried out. For example, [13 U.S.C. § 195](#) prohibits “sampling” in determining population for apportionment purposes. Legal challenges to aspects of the Census Bureau’s methodology, such as the sparing use of [imputation](#) (which fills in data by

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assuming, for example, that unknown houses have the same population characteristics as the closest similar houses) have [generally](#) failed.

## How does the decennial census differ from the American Community Survey (ACS)?

[Among other differences](#), the primary purpose of the decennial census is to provide population counts for congressional apportionment, whereas the [American Community Survey \(ACS\)](#) is intended to measure social and economic characteristics of the U.S. population. The decennial census attempts to count every U.S. resident every 10 years and asks [basic demographic questions](#) such as age, sex, and race. The ACS began in 2010, evolving from a “long form” supplement to the decennial census provided to a subset of households from 1940 to 2000. The ACS asks [additional questions](#) about education, housing, and employment (among other topics) and provides 1-year and 5-year population estimates based on sampling.

## Does the Census Bureau collect citizenship data on any of its other surveys?

Yes. For example, the [ACS asks](#) about citizenship of respondents and household members.

## Can a question about citizenship be included on the decennial census?

The Census Bureau has discretion to add a question about citizenship to the decennial census, so long as it provides a [legally sufficient](#) explanation for doing so. Ahead of the 2020 census, the Secretary of Commerce attempted to add a citizenship question to the decennial census, citing a need to assist the U.S. Department of Justice with [enforcing](#) the [Voting Rights Act](#). That attempt was [blocked](#) by the Supreme Court, which [found](#) that the Secretary’s rationale for adding the question “seem[ed] to have been contrived.”

All but one decennial census between 1820 and 1950 [included](#) some form of a citizenship question. The “long form” census asked a subset of households about citizenship between 1970 and 2000, after which that product was replaced by the [ACS](#).

## Has the Census Bureau studied the potential effects of a citizenship question on census data quality?

Yes. The [2019 Census Test](#) was a self-response survey conducted on a sample population intended to mirror decennial census operations. When comparing results from respondents who were asked a citizenship question with those who were not, the test found that there was no statistically significant difference in *overall* self-response rates. However, the test found statistically significant lower response rates [in some areas and subgroups](#).

Statistically significant lower responses were found among [Hispanic respondents who were the first person listed on the questionnaire](#) in the sample with citizenship questions. The test also found

respondents stopped answering questions on internet surveys at a [statistically higher rate](#) during demographic questions in the citizenship treatment.

## What happens if someone avoids, gives false answers on, or misuses data from the decennial census?

Census-related provisions in [Title 13](#) of the U.S. Code require honest and complete responses to the decennial census, and prohibit the Census Bureau from releasing any personally identifiable information about individuals or households.

## Who determines which census questions to include?

Under [13 U.S.C. § 141](#), the Secretary of Commerce conducts the decennial census “in such form and content as he may determine” and must report the following to the appropriate legislative committees in Congress (typically the Senate Committee on Homeland Security and Governmental Affairs and the House Committee on Oversight and Accountability):

- proposed subjects to be included and types of information to be compiled (submitted no later than April 1 of a year ending in “7”);
- proposed questions (submitted no later than April 1 of a year ending in “8”); and
- any subsequent modifications to the subjects included, types of information compiled, or questions asked.

## Historically, who has been included in the apportionment count?

The Census Bureau [uses](#) the [apportionment population](#) count for the purposes of allocating House seats among states based on the “usual residence” of respondents. It derives from the decennial census, but [historically has differed](#) from the overall decennial census count. The original language of [Article I, Section 2](#), for example, specified that apportionment would be determined by a count of free persons plus three-fifths of “all other [enslaved] Persons” minus Indians not taxed. After slavery was abolished, the [Fourteenth Amendment](#) removed the three-fifths provision for apportionment. In 1940, the U.S. Attorney General [ruled](#) that all Indians are subject to taxation, so the “Indians not taxed” provision [no longer](#) excludes any individuals from the count.

[At the time of this writing](#), the apportionment population is based upon the total resident population (citizens and noncitizens) of each state, excluding territories and Washington, DC. Since 1970, the apportionment count has included most U.S. Armed Forces personnel or federal civilian employees and their dependents stationed outside the United States, who are counted as residents of their home states.

In 2020, then-President Trump announced a [policy](#) “to exclude from the apportionment base aliens who are not in a lawful immigration status” and directed the Secretary of Commerce to provide information allowing him to carry out that policy. Various states, local governments, organizations, and individuals [challenged](#) this policy, and multiple federal [district courts](#) issued injunctions to halt its implementation. The Supreme Court ultimately [ruled](#) that the challenges were too early (in legal terms, not yet ripe) for adjudication, and the policy was never implemented.

# What would happen if noncitizens were excluded from the apportionment count?

The scale of any change in the distribution of House seats across states based on noncitizens' exclusion from the apportionment count is unknown. Apportionment must be based on the actual enumeration taken during the decennial census. Analyses purporting to show such impacts must predict the 2030 or another future apportionment count; the accuracy of those predictions cannot yet be measured.

An attempt to exclude noncitizens from the apportionment count would also likely be subject to legal challenges. The United States has never excluded noncitizens from an apportionment count, and the Supreme Court thus has never directly decided whether such an exclusion would be constitutional.

## Author Information

Sarah J. Eckman  
Analyst in American National Government

Mainon A. Schwartz  
Legislative Attorney

Taylor R. Knoedl  
Analyst in American National Government

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