

May 6, 2024

The Honorable Mike Johnson  
Speaker of the House  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Hakeem Jeffries  
Minority Leader  
U.S. House of Representatives  
Washington, DC 20515

**Re: Opposition to the Equal Representation Act (H.R. 7109)**

Dear Speaker Johnson and Minority Leader Jeffries,

We write in strong opposition to the Equal Representation Act (H.R. 7109), legislation that would mandate inclusion of a question regarding a person’s citizenship on the decennial census beginning in 2030. Our opposition is grounded in a deep and nonpartisan respect for fairness, the experience of charitable organizations in their communities, and constitutional principles.

For more than 30 years, the National Council of Nonprofits has mobilized the largest network of nonprofits in the United States to achieve transformative results. We champion, connect, and inform nonprofits across the country. Nationwide and in every community in America, charitable nonprofits provide vital services and are a key and necessary component of the economy, employing more people than the construction, finance, and manufacturing industries. Prior to the pandemic, nonprofits employed more than 12.3 million workers – 10% of America’s private workforce.<sup>1</sup> During the health and economic crises caused by COVID-19, tens of millions more Americans than usual turned to charitable organizations for help – and nonprofits delivered. In short, charitable nonprofits touch the lives of virtually every person in America. The Census Bureau clearly recognizes this reality and engages with nonprofits as vital partners in securing a fair, accurate, and complete count.

Since the origins of our nation, the decennial census has served as a fair and impartial mechanism to count the people living in the United States. Nonprofits rely on a fair, accurate, and complete count to serve their communities. Adding a citizenship question on the decennial census would undermine performance of the constitutional duty to conduct an “actual Enumeration” of everyone in the nation – more specially: counting all “persons in each state” under Article I § 2 and the 14<sup>th</sup>

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<sup>1</sup> [Nonprofits: America’s Third Largest Workforce](#), Lester Salamon, Johns Hopkins Center for Civil Society Studies, April 2018.

Amendment of the U.S. Constitution. Inquiries about a person’s citizenship would result in flawed data due to undercounts caused by multiple factors, such as:

- Weakening the unambiguous mission of census enumerators to count every person by indicating that noncitizens are not to be treated, or receive the same protections, as citizens for the purposes of the census.
- Injecting the possibility for bias where none currently exists for enumerators charged with counting particular tracts that may have more noncitizens than citizens living there and thus encouraging them to skip “certain” neighborhoods or housing units.
- Scaring people away from participating in the census out of fear that the government will use that information against them.

These and other factors would generate inaccurate counts and a flawed census that is not fair, accurate, or complete.

## **The Consequences of H.R. 7109 Would Be Extreme.**

The National Council of Nonprofits has a history of supporting a fair, accurate, and complete count of the decennial census and opposing any inclusion of a citizenship question that would threaten that count.<sup>2</sup> We believe any undercount resulting from the inclusion of a citizenship question will create an (1) adverse impact on dollars and sustainability; (2) adverse impact on data and effectiveness; and (3) adverse impact on democracy and trust in government.

### **Adverse Impact on Dollars and Sustainability: Undercounts of individuals that charitable nonprofits serve results in inequitable funding allocations, which in turn increases pressure on nonprofits and foundations to do even more to address unmet needs.**

If the federal government fails to count a person in the census, the person still exists. Yet because the federal government uses census data to appropriate funds and allocate resources in communities, an undercount results in Congress – out of ignorance based on flawed data – failing to appropriate funds and allocate resources equitably and where they are indeed needed. The federal government utilizes census data to apportion approximately \$1.5 trillion in federal funds among states and localities<sup>3</sup> that regularly use those funds to contract with nonprofit organizations to deliver the services. When an undercount occurs, the funding is not distributed equitably and shifts the financial burdens from governments onto the backs of charities, churches, and foundations. Nonprofits do

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<sup>2</sup> [Brief of National Council of Nonprofits, National Human Services Assembly, and YWCA USA as Amici Curiae in Support of Respondents](#), *Dept. of Commerce v. New York*, submitted to the U.S. Supreme Court, Apr. 1, 2019.

<sup>3</sup> [Counting for Dollars 2020: The Role of the Decennial Census in the Geographic Distribution of Federal Funds](#), GW Institute of Public Policy, Apr. 29, 2020.

not have the authority, responsibility, capacity, or scale to fill the resulting gaps if Congress undermines efforts to ensure each census is fair, accurate, and complete. Inclusion of a question on citizenship status ensures an undercount that is unfair, inaccurate, and incomplete. More importantly, the result would be real and significant harm to individuals, organizations, and communities.

**Adverse Impact on Data and Effectiveness: The need for quality census data for planning purposes is universal and applies to charitable nonprofits just as it applies to governments and for-profit businesses.**

Charitable nonprofits are on the frontlines of our nation's most vexing challenges. We depend on the federal government to conduct the decennial census properly with a complete count of all persons because **the resulting data will influence nonprofit organizations – and the individuals and communities we serve – just as much as the data will influence decisions by governments and for-profit businesses.** Undercounts do not simply leave numbers out; they mask and skew the true numbers, essentially corrupting the data reported. Using corrupted data would erode the effectiveness of businesses and charitable nonprofits and hurt the individuals and communities they serve.

- Nonprofit organizations need quality census data to better understand the needs of those they serve. For example, does a community hospital need to build a pediatrics wing or geriatrics wing?
- Nonprofit organizations need quality census data to make operational decisions. For example, where is the most accessible location for the new hospital?
- Nonprofits organizations need quality census data to plan and justify their finances. Foundations and donors making contributions need fair, accurate, and complete census data when deciding whether to invest in the new hospital being built.

Each of the examples apply similarly to foodbanks, houses of worship, domestic violence shelters, arts and cultural centers, recreational areas, and so much more.

**Adverse Impact on Democracy and Trust in Government: Undercounts of individuals – and even worse, intentional exclusion of entire groups – lead to inadequate representation and an erosion of trust in democratic institutions.**

Beyond the need for fair distribution of political power, a proper apportionment of Congress and redistricting of state and local governments is vital for democracy and community engagement. Nonprofit organizations have played a critical role in promoting democracy and community engagement, and in maintaining public trust. As safe havens for people to gather to address shared

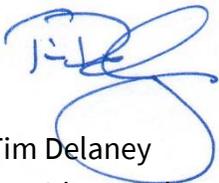
concerns and community challenges, nonprofits serve as vehicles to assemble and amplify their collective voices. Through charitable nonprofits, people stand up and speak out for the public good, often providing a voice for those, like immigrants and noncitizens, who may be unable to speak for themselves.

Regardless of citizenship status, they are part of their communities, and nonprofits are often the safe space for these convenings. When people come together through charitable nonprofits to pursue common goals, they engage with each other, learn more about their community's strengths and challenges, and develop their skills in community problem-solving. Nonprofits serve as a *nonpartisan* space to focus on building and providing community through civic engagement, free from the rancor of partisanship that too often divides and distracts. Communities rely on nonprofits to provide unbiased information and resources for all members of the communities they serve.

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**The National Council of Nonprofits opposes inclusion of a citizenship question on the decennial census questionnaire because, among other things, it will reduce participation and lead to an unfair, inaccurate, and incomplete count. An undercount will adversely affect charitable nonprofits through an (1) impact on dollars and sustainability; (2) impact on data and effectiveness; and (3) impact on democracy and trust in government. We therefore oppose H.R. 7109 and urge you to vote no.**

Sincerely,



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