



Policy Alert: Rescinding Executive Order on the Census

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Action: Executive Order “[Initial Recession of Harmful Executive Orders and Actions](#)”

What it does: The Executive Order rescinding many Orders of the Biden Administration also rescinded [Executive Order 13986](#) of January 20, 2021 (Ensuring a Lawful and Accurate Enumeration and Apportionment Pursuant to the Decennial Census). That Order affirmed the longstanding practice of including the total number of persons residing in each state despite citizenship status.

Key Insights

- The Constitutional requirement for conducting the census is to [reapportion](#) the US House of Representatives to ensure that each state has accurate representation based on population. Every census since the Nation’s first in 1790 has included all residents regardless of citizenship status in the count. The [Fourteenth Amendment](#) calls for the counting of the “whole number of persons in each State” for purposes of apportionment.
- The first Trump Administration attempted in 2019 to [add a question](#) on citizenship status to the 2020 census using the argument that the question was necessary to assist compliance with Federal voting rights law. In June 2019, the US Supreme Court in a 5-4 decision [ruled](#) against the Commerce Department’s decision to add the

question to the 2020 census.

- The revocation of the Biden Executive Order signals a push by the Trump Administration to add a citizenship question to the 2030 census. Earlier this year, Rep. Chuck Edwards (R-NC) re-introduced [legislation](#) that would require a citizenship question on the census and modify apportionment to be based on citizens rather than of all persons (which would likely prompt a Fourteenth Amendment challenge).
- Similarly, four Republican Attorneys General [filed](#) suit against the Commerce Department on the manner in which the Census Bureau counts non-citizens, raising the [prospect](#) that the new Administration could instruct the Commerce Department not to defend the suit or to change its practices.
- Opponents of the citizenship question assert that it [discourages participation](#) by those who reside in the country illegally, resulting in inaccurate figures. The census also serves to distribute federal dollars to states for infrastructure, health care, and other programs.

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