November 2, 2026

Daniel Sweeney
Deputy General Counsel for Economic, Statistical, and Regulatory
Affairs Office of the General Counsel
U.S. Department of Commerce
4600 Silver Hill Road
Designation: ADDEMO/FRN
Washington, DC 20746

RE: Comments on the Proposed Rule, "Decennial Census of the Population of Americans; Proposed Residence Criteria and Proposed Regulations for Demographic Questions," 91 FR 57524 (September 10, 2026); FDMS Docket No. USBC-2026-0628; RIN 0607-AA75

Dear Mr. Sweeney:

The undersigned organizations write to oppose the Department of Commerce's proposed changes to the decennial census.[1] The proposal conflicts directly with the goal of providing every child a high-quality education.

The Notice Ignores the Census's Role in Federal Funding for Children

Three years ago, the Census Bureau published *Uses of Decennial Census Programs Data in Federal Funds Distribution: Fiscal Year 2021,* documenting how data from the decennial census and the surveys and population estimates built on it guide the distribution of federal funds. Excluding one-time pandemic relief programs, the report identifies 344 federal programs that distributed more than $2.1 trillion in Fiscal Year (FY) 2021 using these data in whole or in part.[2] These programs support health care, housing, nutrition, transportation, and public education. The notice of the proposed rule discusses the census's role in Congressional apportionment at length but does not analyze how census data guide the distribution of federal funds. It mentions funding only in passing, in a quotation from a court decision and in one sentence of its Regulatory Flexibility Act analysis.[3] The word "children" does not appear anywhere in the notice or its regulatory impact analysis; the rest of this letter attempts to make up for the omission.

The federal role in education exists to expand access to a high-quality education for every child. The purpose of the law that created the U.S. Department of Education (ED) is "to strengthen the Federal commitment to ensuring access to equal educational opportunity for every individual."[4] Meeting that commitment requires an accurate count of children. Title I of the Elementary and Secondary Education Act, Parts B and C of the Individuals with Disabilities Education Act (IDEA), and other federal education formulas rely heavily upon the annual population estimates and poverty estimates that are built directly from the decennial census, so inaccuracies in the census count carry into the estimates until the next census.[5] The Census Bureau's report lists 23 ED programs, including Title I and the IDEA, that distributed $73.3 billion in FY 2021 using these data.[6] That figure does not include programs serving children that other agencies administer, such as Head Start, the Child Care and Development Block Grant, the National School Lunch Program, and the School Breakfast Program.[7] Below, we describe several ways in

which this proposed policy will produce inaccurate counts directly affecting education funding and harming public schools throughout the nation.

Excluding Most Noncitizens Would Distort the Count of Children

Commerce's first proposed change, excluding most noncitizens from the count, would produce inaccurate data on the nation's children. Public schools must provide all children access to a free public education regardless of immigration status. In *Plyler v. Doe* (1982), the Supreme Court held that efforts to deny undocumented children access to free public schools were unconstitutional.[8] Federal education formulas count the children who live in each state and school district, and they do not limit that count to citizens.

In 2023, about 1.5 million children under 18 were undocumented.[9] The proposed rule would remove these children from the apportionment count, along with children who hold temporary legal status.[10] The notice says the Bureau will continue to publish statistics separate from those used for apportionment, but it does not say which populations those statistics will cover.[11] It also does not consider whether an effort to exclude some noncitizens would discourage response and lower the count, a risk the Bureau's own research documents, as described below.

The notice leaves the American Community Survey (ACS), which collects a broad range of demographic data, outside the rule,[12] and the Bureau's Preliminary Regulatory Impact Analysis suggests the ACS could serve as a substitute because it includes residents regardless of immigration status.[13] That analysis concedes, however, that the accuracy of ACS estimates "may decline because the ACS will not have an updated full count of the U.S. population," and that without new decennial census data to recalibrate them, those estimates "will become less reliable."[14]

Without a full count of the population, including undocumented children and children with temporary legal status, the number of children in the nation and in each state and school district would be inaccurate from the start. School districts would not receive their appropriate share of federal funding to serve the students in their schools.

A Legal-Status Question Would Lower Response Rates

The notice also says the Bureau could add a legal-status question to the census form and is considering checking status against administrative records, including Department of Homeland Security records.[15] The Bureau's own research shows that a status question would make the count less accurate. Before the 2020 census, Bureau researchers concluded that adding a citizenship question "would lead to lower self-response rates in households potentially containing noncitizens, resulting in higher fieldwork costs and a lower-quality population count."[16] A 2019 follow-up estimated that the question would have "an 8.0 percentage point larger effect on self-response rates in households that may have noncitizens relative to those with only U.S. citizens," an effect the authors said "would predict an overall 2.2 percentage point drop in self-response in the 2020 census."[17]

In addition, administrative records have accuracy problems. Census Bureau researchers found that U.S. Citizenship and Immigration Services naturalization records "do not cover

naturalizations occurring before 1988, and they miss some between 1988 and 2000," and "do not always cover children under 18 at the time a parent became a naturalized U.S. citizen."[18] The Migration Policy Institute estimated that about 30 million people in the 2020 census could not be matched to administrative records. By its calculation, 18 to 20 million of them would have been U.S. citizens or lawfully present immigrants, and a records-based approach could have wrongly excluded them.[19]

Title I Counts Every Low-Income Child

Title I, Part A directs the Secretary of Education to count children aged 5 to 17 from families below the poverty level, using the most recent satisfactory data available from the Department of Commerce.[20] Those data are the Census Bureau's Small Area Income and Poverty Estimates, which draw on the decennial census and the population estimates built from it.[21] Within each district, Title I funds go to schools based on the number of children from low-income families.[22] Neither provision limits the count to children who are citizens.

In the 2022–23 school year, 86 percent of Title I schools operated schoolwide programs, which use Title I funds to serve all students in the school. ED has urged states to make greater use of schoolwide flexibility.[23] When an inaccurate count reduces a district's Title I allocation, the reduction falls on every student in those schools, including students who are U.S. citizens.

IDEA Funding Relies Upon Every Low-Income Child

For IDEA Part B (children ages 3-21), since 1997, the law's three-prong allocation funding formula has relied upon general census population figures to ensure that federal money is distributed equitably based on the total number of children a state must serve [and is not based on the number of children with disabilities identified]. While every state is guaranteed the baseline funding equal to the exact dollar amount it received in FY 1999 (Prong 1), the formula also requires that any "new" money appropriated by Congress above that 1999 baseline, 85 percent is distributed based strictly on a state's relative share of the general child population which is tracked through the census' population estimate (Prong 2). In addition, the remaining 15 percent of the new money is distributed based on the state's relative share of children living in poverty (Prong 3), which is also determined by the census population estimate data. For IDEA Part C (children ages 0-2), the federal allocation formula relies *entirely* on the total estimated number of children in that age bracket living in the state, which comes entirely from the census. Note, there is a statutory minimum grant of 0.5 percent of the total national appropriation for each state, ensuring that even sparsely populated states receive a baseline level of Part C funding to ensure they can serve infants and toddlers identified as having a developmental delay or disability.[24]

Undercounts Would Cost Districts Teachers and Programs

Research prepared for the litigation over the 2020 census estimated the size of funding losses for individual districts attributable to census changes similar to the ones Commerce is proposing. Dr. Nora Gordon of Georgetown University modeled how a citizenship question that led to a Hispanic undercount of 2 to 3.5 percent, alongside smaller undercounts of other residents, would change Title I allocations. Based on FY 2018 allocations, for example, the Houston Independent

School District would lose between $1.0 million and $1.6 million, and the Clark County School District in Nevada would lose between $257,000 and $550,000.[25] These losses would add to existing undercounts. The Census Bureau's own evaluations of the 2020 census found that it undercounted Hispanic residents by 4.99 percent and children under age 5 by an estimated 5.4 percent, and the Government Accountability Office has documented the same persistent undercounts.[26]

Drawing on an ED study, Gordon reported that "districts most often use Title I funds to pay for instructional personnel, especially in reading and math." A district that loses Title I funds must either cut those positions or pay for them by cutting other services.[27] Other formula programs depend on the same counts. For example, ED allots Supporting Effective Instruction State Grants, which support professional development for teachers and school leaders, mostly according to each state's share of school-age children in poverty.[28] State formula grants under the Carl D. Perkins Career and Technical Education Act are allotted according to each state's population between the ages of 15 and 65.[29] Grants for 21st Century Community Learning Centers, which fund after-school and summer programs, follow each state's share of Title I funds.[30] In each case, an undercount reduces the state's share of federal education funding.

Regarding IDEA, which *every* state and school district relies upon to conduct Child Find and to provide a free, appropriate public education in the least restrictive environment to all qualifying children (ages 0-21), the loss of any special education funding would be devastating to schools, children, and families. Because the census data are relied upon for both the 85 percent population metric as well as the 15 percent poverty amount, degrading or removing demographic details would introduce several critical vulnerabilities into the federal-to-state-calculation including that the decennial census acts as the hard mathematical "anchor" for the annual population estimates program. As noted, any elimination or weakening of these baseline data points would severely obscure the statistical models. This would then lead to compounding mathematical errors in annual population estimates throughout the 2030s, miscalculating the 85 percent youth population metric that drives the bulk of any new IDEA funding and the 15 percent poverty amount.[31]

Additionally, in 1997, Congress established a complex "maximum allowable grant" ceiling for states. This statutory cap limits how much money a state can receive to prevent wild spikes in funding and is actively adjusted every year based on a state's annual rate of change in both its general youth population (85 percent weight) and its youth poverty population (15 percent weight). Skewed or incomplete demographic data introduces artificial variance into these tracking metrics. If a state's real growth among minority populations is masked by a poor census count, its statutory maximum funding ceiling will be artificially depressed, permanently throttling the state's potential special education funding growth, which supports the infrastructure of special educators, specialists, therapists, school psychologists and others essential to providing children the services to which they are entitled.[32]

Finally, more than 13,000 local school districts rely on highly accurate, local census demographic baselines to audit whether their special education identifications align with local community realities and needs. Removing this census infrastructure strips school systems of the objective, third-party data needed to defend or adjust their local funding and compliance measures which federal law requires.

Removing Race and Ethnicity Questions Would Weaken the Population Estimates

The proposed rule would also bar questions on race, ethnicity, and sexual orientation from the decennial census questionnaire.[33] Every decennial census since the first in 1790 has classified the population by race, and every household has been asked about Hispanic origin since 1980.[34] The Bureau's own Preliminary Regulatory Impact Analysis describes what would be lost if data on race and ethnicity were excluded from the census. Specifically, the analysis states that annual population estimates by race and ethnicity serve as population controls for major federal surveys and supply "required information for state and federal grants and other funding formulas." Producing those estimates depends on decennial counts by race and ethnicity, "as there are no other comparably accurate, comprehensive, and reliable sources of this information." Omitting the questions, the analysis concludes, "would require the development of estimates from a base population derived from outdated and/or less accurate data and would deteriorate the accuracy of the estimation method itself."[35] These inaccuracies would lead to funding reductions in the schools federal education policy intends to support.

The analysis offers ACS as a possible substitute, but it also acknowledges that population totals for race and ethnicity groups from the decennial census and the population estimates are more reliable.[36] It further concedes that ACS "may not be a suitable substitute for all federally recognized [T]ribes or state-recognized [T]ribes, some of which have small population sizes for which the ACS does not provide accurate estimates," and it notes that the Department of Housing and Urban Development relies on counts of American Indian and Alaska Native Tribes and villages to make Indian Housing Block Grant determinations.[37] For many small Tribal communities, the decennial census is the only reliable source of data on the number of American Indian and Alaska Native children who live there. The Bureau has said it will consult with Tribes on the proposal; that consultation must take place before any final rule is issued.[38]

A Permanent Ban on Sexual Orientation Questions Is Unsupported

Public schools educate every student who enrolls, regardless of sexual orientation. In 2023, nearly one in four high school students identified as gay, lesbian, bisexual, questioning, or another sexual identity other than heterosexual.[39] The decennial census has never asked about sexual orientation, and the proposed rule would bar the Bureau from ever doing so on any questionnaire used for the enumeration.[40] The notice justifies the ban by citing the "(potentially) sensitive nature" of the question and the "reduced need for or usefulness of this information," but it offers no evidence for either claim.[41] The Bureau's own impact analysis, again, offers ACS as a substitute for other demographic data, but it then acknowledges that the survey "does not ask about sexual orientation."[42] The Bureau itself began asking about sexual orientation on its Household Pulse Survey in 2021.[43] Writing a permanent prohibition into regulation would keep the Bureau from testing whether such a question could produce reliable data for future censuses, and it would leave the federal government without a count of a population that schools already serve.

Schools and Federal Education Statistics Rely on Census Data

Schools also use decennial census data for purposes other than funding. For example, the Census Bureau's report notes that decennial census data are used to delineate school district boundaries.[44] ED's national projections of school enrollment and teacher counts for the coming decade are built on Census Bureau population estimates and projections, which start from the decennial count.[45] Errors in the count would carry into those projections.

ED's statistical work depends on census data in other ways as well. The Education Sciences Reform Act directs the National Center for Education Statistics (NCES) to collect and report education data, to the extent feasible, by race, ethnicity, socioeconomic status, disability, and other characteristics.[46] NCES "has collaborated with the U.S. Census Bureau since the 1970 Census to create custom data products that provide information about education-related populations and areas," and it sponsors the Bureau's annual School District Review Program, which updates the school district boundaries used to calculate Title I allocations.[47]

ED's capacity to do this work has already been reduced. ED's Office of Inspector General found that between January and March 2025, the Institute of Education Sciences, which houses NCES, lost at least 84 percent of its employees, and that the offices responsible for "congressionally mandated collection, analysis, and reporting of statistics on the condition of American education" were left with no remaining employees. In the same period, ED terminated 97 Institute contracts worth $1.1 billion, including studies that the Inspector General said "appear to have been statutorily required." As of July 2025, NCES had between one and three employees.[48] A less accurate census would further weaken the data that remain.

Conclusion

The proposed rule would obfuscate and significantly weaken the count of the nation's children and the data that federal education programs will depend on for the next decade. Additionally, public schools across the country will be underfunded and therefore unable to educate our nation's children, including English learners and children with disabilities. We urge the Department of Commerce to withdraw it.

A census that counts every resident, retains the race and Hispanic-origin questions, and does not ask about legal status is necessary to give schools an accurate picture of the children they serve and ensure that federal funding is calculated according to the requirements of federal law. At a minimum, Commerce should not finalize any rule before it completes consultation with Tribal nations and publishes an analysis of the rule's effects on federal education funding formulas. It should then reopen the comment period so the public can respond to that analysis.

Sincerely,

Advocates for Children of New York

AFT

AFT Massachusetts

All4Ed

American Association of School Librarians (AASL)

American School Counselor Association

BFDI Educational Services, Inc.

Boston Teachers Union

Building Changes

CA Partnership for the Future of Learning

Californians Together

Catalyst California

Center for Law and Social Policy

Coalition on Human Needs

Council of Parent Attorneys and Advocates

CREATE for Education

CUNY Initiative on Immigration and Education (CUNY-IIE)

Dudley Flood Center for Educational Equity & Opportunity

EdAllies

EDGE Partners

EdTrust

Education Law Center-PA

Educators for Excellence

Empowered Higher Education Consulting

Empowering Pacific Islander Communities (EPIC)

Families for Strong Public Schools

Great MN Schools

Healthy Schools Campaign

Hope Network's Michigan Education Corps

Illinois Families for Public Schools

Immigrant Connections

ImmSchools

Institute for Educational Leadership

Juvenile Law Center

Kids First Chicago

Lillie's Foundation

National Association for Family, School, and Community Engagement (NAFSCE)

National Association of School Psychologists

National Center for Learning Disabilities

National Council on Teacher Quality

National Education Association

National Newcomer Network

National Parents Union

NYSTESOL

Ohio Equal Rights

Oklahoma Appleseed Center for Law and Justice, Inc.

Public Advocates

Save Our Schools Arizona

School Staff Against Sexual Violence

State Wide Education Organizing Committee

Stop Sexual Assault in Schools

Teach Plus

The Advocacy Institute

The Arc of the United States

The Center for Learner Equity

The Internationals Network

Treehouse

UnidosUS

Urban League of West Michigan

Wisconsin Alliance for Excellent Schools

Wisconsin Public Education Network

Women Employed

Youth Law Center

[1] U.S. Department of Commerce, Census Bureau, "Decennial Census of the Population of Americans; Proposed Residence Criteria and Proposed Regulations for Demographic Questions," Proposed Rule, 91 Fed. Reg. 57524 (Sept. 10, 2026), FR Doc. 2026-18481, Docket No. USBC-2026-0628, RIN 0607-AA75, https://www.federalregister.gov/documents/2026/09/10/2026-18481/decennial-census-of-the-population-of-americans-proposed-residence-criteria-and-proposed-regulations.

[2] U.S. Census Bureau, Ceci Villa Ross, *Uses of Decennial Census Programs Data in Federal Funds Distribution: Fiscal Year 2021* (working paper, June 2023), https://www2.census.gov/library/working-papers/2023/decennial/census-data-federal-funds-fy-2021.pdf. The report defines "Decennial Census Programs data" to include the decennial census, the American Community Survey, and the geographic programs that support both. It also counts related datasets, such as the Bureau's annual population estimates (pp. 4–7). The report's headline figure, more than $2.8 trillion across 353 programs (p. 2), includes funding provided in response to the COVID-19 pandemic. The figures in this letter are All4Ed's calculations from Table 1 of the report. They exclude nine programs created or funded solely for pandemic relief, totaling $709.0 billion: Coronavirus State and Local Fiscal Recovery Funds, the Education Stabilization Fund, the Provider Relief Fund, the Emergency Rental Assistance Program, the Homeowner Assistance Fund, the Emergency Connectivity Fund, Pandemic EBT Food Benefits, the Coronavirus Relief Fund, and COVID-19 Testing and Mitigation for Rural Health Clinics. Several ongoing programs also received temporary pandemic supplements in fiscal year 2021 that the report does not separate out, so these figures remain higher than they would be in a typical year.

[3] FR Doc. 2026-18481, https://www.federalregister.gov/d/2026-18481. The notice quotes *Carey v. Klutznick* describing the census as a measuring stick for dispensing federal funds, and its Regulatory Flexibility Act analysis acknowledges that entities may use decennial census information to obtain funding. The Bureau's Preliminary Regulatory Impact Analysis acknowledges that census data inform "allocating trillions of dollars in federal funding to communities across the country—for hospitals, fire departments, schools, roads, and other critical programs and services," but it estimates none of those effects and classifies the rule as not economically significant. U.S. Census Bureau, *Preliminary Regulatory Impact Analysis: Decennial Census of the Population of Americans; Proposed*

Residence Criteria and Proposed Regulations for Demographic Questions, Docket No. 260903-0005, Regulations.gov Doc. No. USBC-2026-0628-0002, https://www.regulations.gov/document/USBC-2026-0628-0002, pp. 4, 9.

[4] Department of Education Organization Act, Pub. L. No. 96-88, § 102(1), 20 U.S.C. § 3402(1).

[5] U.S. Census Bureau, *Uses of Decennial Census Programs Data*, https://www2.census.gov/library/working-papers/2023/decennial/census-data-federal-funds-fy-2021.pdf, p. 6; Christine Hartley, Luke Rogers, and Catherine Doren, "Population Estimates at the Start of the Decade," U.S. Census Bureau (Dec. 16, 2021), https://www.census.gov/newsroom/blogs/random-samplings/2021/12/population-estimates-start-of-the-decade.html ("Typically, we develop the estimates beginning with the latest decennial census as the base."). Title I directs the Secretary to count children from low-income families using "the most recent satisfactory data… available from the Department of Commerce," 20 U.S.C. § 6333(c)(2). Those data are the Census Bureau's Small Area Income and Poverty Estimates, which apply poverty rates to the Bureau's annual population estimates of school-age children, estimates that are "directly based on decennial census counts." Declaration of Nora Gordon, Ph.D. (2019), ¶ 14, *Kravitz v. U.S. Department of Commerce*, No. 8:18-cv-01041-GJH (D. Md.), and *La Unión del Pueblo Entero v. Ross*, No. 8:18-cv-01570-GJH (D. Md.). IDEA Part B likewise allocates funds above each state's base amount according to its relative population of children and children in poverty. 20 U.S.C. § 1411(d)(3).

[6] U.S. Census Bureau, *Uses of Decennial Census Programs Data*, https://www2.census.gov/library/working-papers/2023/decennial/census-data-federal-funds-fy-2021.pdf, Table 3, pp. 28–29. All4Ed calculation. The report lists 24 Department of Education programs totaling $305.1 billion; the figure in this letter excludes the Education Stabilization Fund ($231.8 billion), which provided one-time pandemic relief.

[7] U.S. Census Bureau, *Uses of Decennial Census Programs Data*, https://www2.census.gov/library/working-papers/2023/decennial/census-data-federal-funds-fy-2021.pdf, Table 1. These programs appear under the Department of Health and Human Services (Head Start, Assistance Listing 93.600; Child Care and Development Block Grant, 93.575) and the Department of Agriculture (National School Lunch Program, 10.555; School Breakfast Program, 10.553).

[8] *Plyler v. Doe*, 457 U.S. 202 (1982), https://www.govinfo.gov/content/pkg/USREPORTS-457/pdf/USREPORTS-457-202.pdf.

[9] Jeffrey S. Passel and Jens Manuel Krogstad, *U.S. Unauthorized Immigrant Population Reached a Record 14 Million in 2023* (Pew Research Center, Aug. 21, 2025), p. 15, https://www.pewresearch.org/wp-content/uploads/sites/20/2025/08/RE_2025.08.21_Unauthorized-Immigrants_REPORT.pdf.

[10] FR Doc. 2026-18481, https://www.federalregister.gov/d/2026-18481, proposed § 60.4. The proposed rule counts U.S. citizens and lawful permanent residents and excludes other foreign citizens from the apportionment count.

[11] FR Doc. 2026-18481, https://www.federalregister.gov/d/2026-18481, n.5.

[12] FR Doc. 2026-18481, https://www.federalregister.gov/d/2026-18481, proposed § 70.4.

[13] U.S. Census Bureau, *Preliminary Regulatory Impact Analysis*, https://www.regulations.gov/document/USBC-2026-0628-0002, p. 12.

[14] U.S. Census Bureau, *Preliminary Regulatory Impact Analysis*, https://www.regulations.gov/document/USBC-2026-0628-0002, pp. 12–13. The analysis explains that the ACS relies on intercensal population estimates to generate its sampling weights.

[15] FR Doc. 2026-18481, https://www.federalregister.gov/d/2026-18481, Section I.

[16] J. David Brown, Misty L. Heggeness, Suzanne M. Dorinski, Lawrence Warren, and Moises Yi, "Understanding the Quality of Alternative Citizenship Data Sources for the 2020 Census," Center for Economic Studies Working Paper CES-18-38R (U.S. Census Bureau, revised June 2019; original version August 2018), p. 2, https://www2.census.gov/ces/wp/2018/CES-WP-18-38R.pdf.

[17] J. David Brown, Misty L. Heggeness, Suzanne M. Dorinski, Lawrence Warren, and Moises Yi, "Predicting the Effect of Adding a Citizenship Question to the 2020 Census," Center for Economic Studies Working Paper CES-19-18 (U.S. Census Bureau, June 2019), abstract, https://www2.census.gov/ces/wp/2019/CES-WP-19-18.pdf. The authors compared mail response to the 2010 American Community Survey, which asked about citizenship, with response to the 2010 Census, which did not. They applied the difference to the 28.1 percent of housing units that may include a noncitizen.

[18] Brown et al., "Understanding the Quality of Alternative Citizenship Data Sources for the 2020 Census," p. 18.

[19] Randy Capps, Jennifer Van Hook, and Julia Gelatt, "Millions of U.S. Citizens Could Be Excluded under Trump Plan to Remove Unauthorized Immigrants from Census Data," Migration Policy Institute commentary (July 2020), https://www.migrationpolicy.org/news/millions-us-citizens-could-be-excluded-under-plan-remove-unauthorized-immigrants-census.

[20] Elementary and Secondary Education Act of 1965 (ESEA), § 1124(c)(1)(A), (c)(2), 20 U.S.C. § 6333(c).

[21] U.S. Census Bureau, "About SAIPE," https://www.census.gov/programs-surveys/saipe/about.html; Declaration of Nora Gordon, Ph.D. (2019), ¶ 14, *Kravitz v. U.S. Department of Commerce*, No. 8:18-cv-01041-GJH (D. Md.), and *La Unión del Pueblo Entero v. Ross*, No. 8:18-cv-01570-GJH (D. Md.).

[22] ESEA § 1113(a)(5), (c)(1), 20 U.S.C. § 6313. Districts may use census poverty data, free or reduced-price meal eligibility, TANF or Medicaid participation, or a composite to identify children from low-income families.

[23] U.S. Department of Education, "U.S. Department of Education Encourages States to Maximize Schoolwide Program Flexibilities to Improve Student Success," press release (January 2026), https://www.ed.gov/about/news/press-release/us-department-of-education-encourages-states-maximize-schoolwide-program-flexibilities-improve-student-success, and accompanying Dear Colleague Letter to chief state school officers (Jan. 21, 2026).

[24] Congressional Research Service, *The Individuals with Disabilities Education Act (IDEA) Funding: A Primer*, R44624 (updated Feb. 13, 2026), https://www.congress.gov/crs-product/R44624, pp. 12–14, 18–19, 25; see also 20 U.S.C. § 1411(d)(3)(A) (Part B base, population, and poverty factors) and 20 U.S.C. § 1443(c) (Part C allotments and minimum grant).

[25] Expert Report and Declaration of Nora Gordon, Ph.D. (Oct. 5, 2018), pp. 2, 7–8, and Appendix, "School Districts and Estimated Loss in Title I Funding," Tables 1a–1g, *Kravitz v. U.S. Department of Commerce*, No. 8:18-cv-01041-GJH (D. Md.), and *La Unión del Pueblo Entero v. Ross*, No. 8:18-cv-01570-GJH (D. Md.). Gordon modeled seven scenarios combining Hispanic undercounts of 2 to 3.5 percent with undercounts of 0 to 1.5 percent for the rest of the population. Estimated losses for the Houston Independent School District range from $1,043,616 (Table 1a) to $1,593,352 (Table 1f); for the Clark County School District, from $257,368 (Table 1a) to $549,808 (Table 1g).

[26] U.S. Census Bureau, "Census Bureau Releases Estimates of Undercount and Overcount in the 2020 Census," press release (Mar. 10, 2022), https://www.census.gov/newsroom/press-releases/2022/2020-census-estimates-of-undercount-and-overcount.html; U.S. Government Accountability Office, *2020 Census: Coverage Errors and Challenges Inform 2030 Plans*, GAO-25-107160 (November 2024), https://www.gao.gov/products/gao-25-107160, pp. 12–14. The 4.99 percent figure is the Bureau's Post-Enumeration Survey estimate of net coverage error for Hispanic or Latino residents. The 5.4 percent figure is the middle estimate from the Bureau's Demographic Analysis for children ages 0 to 4, which the Bureau considers the better method for assessing the count of young children. GAO reports that the Hispanic undercount increased from 2010 to 2020 and that young children were undercounted in both censuses.

[27] U.S. Department of Education, *Study of Title I Schoolwide and Targeted Assistance Programs: Final Report* (2018), https://www.air.org/sites/default/files/downloads/report/Study%20of%20Title%20I%20Schoolwide%20and%20Targeted%20Assistance%20Programs_Final%20Report.pdf, as summarized in Expert Report and Declaration of Nora Gordon, Ph.D. (Oct. 5, 2018), *Kravitz v. U.S. Department of Commerce*, No. 8:18-cv-01041-GJH (D. Md.), and *La Unión del Pueblo Entero v. Ross*, No. 8:18-cv-01570-GJH (D. Md.). Gordon notes that a district that maintains those services with other education funds would have to cut other programs instead, so a loss of Title I funds still reduces overall school spending.

[28] ESEA § 2101(b)(2)(A)(iv), (b)(3), 20 U.S.C. § 6611(b)(2)(A)(iv), (b)(3). Funds above each state's base amount are allotted 20 percent according to its share of individuals aged 5 through 17 and 80 percent according to its share of individuals aged 5 through 17 from families with incomes below the poverty line.

[29] Carl D. Perkins Career and Technical Education Act of 2006, § 111(a)(3), (c), 20 U.S.C. § 2321(a)(3), (c). Funds are allotted according to each state's population aged 15 to 19 (50 percent), 20 to 24 (20 percent), and 25 to 65 (15 percent), adjusted by per capita income, with the remaining 15 percent based on the combined shares from those three age groups.

[30] ESEA § 4202(b)(1), 20 U.S.C. § 7172(b)(1). Each state's allotment is proportional to the amount it received in the preceding fiscal year under subpart 2 of Title I, Part A.

[31] Congressional Research Service, *IDEA Funding: A Primer*, pp. 14, 18–19. On the decennial census as the base for the annual population estimates, see note 5.

[32] Congressional Research Service, *IDEA Funding: A Primer*, pp. 14–15, 20.

[33] FR Doc. 2026-18481, https://www.federalregister.gov/d/2026-18481, proposed Part 70.

[34] U.S. Census Bureau, *Measuring America: The Decennial Censuses From 1790 to 2000*, POL/02-MA(RV) (September 2002), https://www2.census.gov/library/publications/2002/dec/pol_02-ma.pdf, p. 5; Campbell Gibson and Kay Jung, *Historical Census Statistics on Population Totals by Race, 1790 to 1990, and by Hispanic Origin, 1970 to 1990*, Population Division Working Paper No. 76 (U.S. Census Bureau, February 2005), https://www.census.gov/content/dam/Census/library/working-papers/2005/demo/POP-twps0076.pdf. The 1970 census asked about Hispanic origin of a 5 percent sample; the question was first asked of every household in 1980. U.S. Census Bureau, "About the 1970 Decennial Census," https://www.census.gov/programs-surveys/decennial-census/decade/1970/about-1970.html.

[35] U.S. Census Bureau, *Preliminary Regulatory Impact Analysis*, https://www.regulations.gov/document/USBC-2026-0628-0002, p. 15.

[36] U.S. Census Bureau, *Preliminary Regulatory Impact Analysis*, https://www.regulations.gov/document/USBC-2026-0628-0002, p. 13.

[37] U.S. Census Bureau, *Preliminary Regulatory Impact Analysis*, https://www.regulations.gov/document/USBC-2026-0628-0002, pp. 14–15. The analysis notes that the ACS American Indian and Alaska Native tables, a five-year product, were developed to provide characteristics for Tribes, but that "not all [T]ribes meet the population threshold to be included in this product or have accurate estimates due to sample size." Id. at 15 n.16.

[38] U.S. Census Bureau, *Preliminary Regulatory Impact Analysis*, https://www.regulations.gov/document/USBC-2026-0628-0002, pp. 10, 14.

[39] Nancy D. Brener et al., "Overview and Methods for the Youth Risk Behavior Surveillance System — United States, 2023," *MMWR Supplements* 73, no. 4 (Oct. 10, 2024): 1–12, Table 2, https://www.cdc.gov/mmwr/volumes/73/su/su7304a1.htm. Students identified as gay or lesbian (4.0 percent), bisexual (11.4 percent), questioning (4.4 percent), or another sexual identity (4.3 percent), for a combined 24.1 percent. The combined figure is All4Ed's calculation.

[40] FR Doc. 2026-18481, https://www.federalregister.gov/d/2026-18481, proposed § 70.2(a).

[41] FR Doc. 2026-18481, https://www.federalregister.gov/d/2026-18481, Section II.

[42] U.S. Census Bureau, *Preliminary Regulatory Impact Analysis*, https://www.regulations.gov/document/USBC-2026-0628-0002, p. 13.

[43] Thom File and Jason-Harold Lee, "Household Pulse Survey Updates Sex Question, Now Asks Sexual Orientation and Gender Identity," U.S. Census Bureau (2021), https://www.census.gov/library/stories/2021/08/household-pulse-survey-updates-sex-question-now-asks-sexual-orientation-and-gender-identity.html.

[44] U.S. Census Bureau, *Uses of Decennial Census Programs Data*, https://www2.census.gov/library/working-papers/2023/decennial/census-data-federal-funds-fy-2021.pdf, p. 6.

[45] Véronique Irwin, Tabitha M. Bailey, Rajeevee Panditharatna, and Amir Sadeghi, *Projections of Education Statistics to 2030*, NCES 2024-034 (National Center for Education Statistics, February 2024), https://nces.ed.gov/pubs2024/2024034.pdf, p. iii; U.S. Census Bureau, *Uses of Decennial Census Programs Data*, https://www2.census.gov/library/working-papers/2023/decennial/census-data-federal-funds-fy-2021.pdf, p. 6.

[46] Education Sciences Reform Act of 2002, § 153(a)(3), 20 U.S.C. § 9543(a)(3).

[47] National Center for Education Statistics, Education Demographic and Geographic Estimates, "Demographic," https://nces.ed.gov/programs/edge/Demographic/Census; U.S. Census Bureau, "School District Review Program: About," https://census.gov/programs-surveys/sdrp/about.html.

[48] U.S. Department of Education, Office of Inspector General, *Review of U.S. Department of Education Changes in Staffing and Operations*, Final Flash Report, ED-OIG/F25DC0245 (June 22, 2026), https://oig.ed.gov/reports/other/review-us-department-education-changes-staffing-and-operations, pp. 6, 12, 20–21.