

Asian American Legal Defense and Education Fund



On April 1, 2019, the Asian American Legal Defense and Education Fund (AALDEF) and the National Asian Pacific American Bar Association (NAPABA) filed an amicus brief in the U.S. Supreme Court opposing the addition of a proposed citizenship question to the 2020 Census.

Sixty-four (64) bar associations and AAPI-serving community organizations joined the brief.

AALDEF executive director Margaret Fung said, “Asian-Americans are the fastest-growing racial group in this country and make up the largest segment of new immigrants. Adding a question concerning citizenship on the decennial census will uniquely harm our community and will undermine the purported reason for adding the question in the first place — more effective enforcement of the Voting Rights Act. We are pleased to work with NAPABA on this brief and to fight with our legal and community partners from around the country on this critical issue.”

NAPABA President Daniel Sakaguchi said, “The Asian-American and Pacific Islander

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Written by Administrator

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community must be counted in the Census. As an extremely diverse minority community, we rely on accurate data to help protect our rights, secure language access, and ensure political representation. Unfortunately, the record indicates the Census Bureau, in adding the citizenship question, ignored and did not take into account its own findings that the question would depress response rates from immigrant communities and lead to their being undercounted. I am proud of the work of NAPABA and AALDEF on this important brief, and pleased that so many AAPI organizations from around the country joined.”

About the Brief

The AAPI organizations urge the Court to uphold the district court’s rulings to enjoin the addition of the citizenship question: “Amici agree with the district court’s finding that the addition of a citizenship question will likely lead to an undercount of noncitizen households of at least 5.8 percent...This chilling of participation in the 2020 Census will have a disproportionate effect on the AAPI community...These heightened concerns for the AAPI community come at a crucial moment, because Asian-Americans are the fastest-growing racial group in the country and stand to make substantial gains in political representation based on that population growth.”

The brief argues that the addition of the proposed citizenship question will have significant negative impacts on the AAPI community.

First, the community would be harmed because it is comprised of large numbers of individuals the Census Bureau defines as hard to count.

Second, the impact of an undercount would stymie the ability to protect voting rights of AAPIs.

Third, the procedural anomalies in the administrative decision-making process do nothing to allay the community's experience with historical misuse of census data — and further undermine the public's trust in the Census Bureau.

Background

On April 23, 2019, the Supreme Court will hear an appeal in *Department of Commerce v. New York* (18-966).

In January, the Southern District of New York found the Administration's decision to add the question "arbitrary" and "capricious" and that it violated the Administrative Procedure Act.

In a related challenge, *California v. Ross*, the Northern District of California found the Administration violated the Administrative Procedure Act and the Enumeration Clause of the Constitution.

A decision is pending in a third challenge, involving AAPI and Hispanic plaintiffs, in the District of Maryland.

The Census Bureau must finalize the census forms in June to be properly prepared to conduct the enumeration in 2020.

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A citizenship question was last included on decennial census in 1950, prior to the passage of the Immigration and Nationality Act of 1965 and the removal of country bars dramatically limiting immigration from Asia and the Pacific Islands.

A copy of the brief can be found here: [AALDEFNAPABACensusAmicusBrief.pdf](#) and the appendix here.

Past Work

AALDEF and NAPABA have joined AAPI organizations from around the country in opposing the addition of an untested citizenship question.

AALDEF submitted public comments opposing the question in August 2018.

NAPABA also submitted public comments.

AALDEF and NAPABA are grateful to lead pro bono counsel Albert Giang, 2018 Recipient of the NAPABA Pro Bono Award, NAPABA Amicus Committee co-chair, and partner at Boies Schiller Flexner LLP in Los Angeles; Miguel A. Gradilla and Ziwei Hu of BSF; Amicus Committee co-chair, Radha Pathak of Stris & Maher LLP; Meredith Higashi of the NAPABA Civil Rights Committee; Navdeep Singh; and the AALDEF and NAPABA staff for their efforts in this case.

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For more information, contact Jerry Vattamala, Democracy Program Director, at 212.966.5932 x209, jvattamala@aaldef.org

The Asian American Legal Defense and Education Fund (AALDEF), founded in 1974, is a national organization that protects and promotes the civil rights of Asian-Americans.

By combining litigation, advocacy, education and organizing, AALDEF works with Asian-American communities across the country to secure human rights for all.