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## September 23 Elections, Census & Redistricting Update

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**WE ARE NEW YORK'S LAW SCHOOL****N.Y. ELECTIONS, CENSUS & REDISTRICTING UPDATE****N.Y. VOTING RIGHTS ACT LITIGATION****Orange County: *Clarke et al. v. Town of Newburgh***

In January, three Black and three Newburgh voters filed this lawsuit claiming the town's at-large election system for Town Board elections has prevented Black and Hispanic residents from electing candidates of their choice, violating the N.Y. Voting Rights Act.

On August 26, the parties submitted a potential briefing schedule to the court for summary judgment while also requesting a November trial date. On August 29, the court scheduled trial to begin on November 1, but did not establish a briefing schedule for summary judgment.

Since no briefing schedule was formally established, correspondence to the judge was filed on September 19 on behalf of both parties. It requested an adjustment to their proposed briefing schedule. The reasoning was to accommodate several depositions that had to be rescheduled.

The proposed dates included September 25 for moving briefs; October 16 as the deadline for filing opposition briefs; and October 23 as the deadline to file reply briefs.

In the same letter, the parties separately requested that the word limits for the moving and opposition briefs be increased to 10,000 words, and for the reply briefs for summary judgment to be increased to 5,000 words.

**CENSUS****Is New York On Course to Lose Three Congressional Districts After 2030?**

According to a report in Newsday by Michael Gormley, "New York has lost more than 800,000 residents to other states since 2020, the most of any state by share of population, but independent studies show the reasons for this post-pandemic exodus are complex and go well beyond the usual gripes about high taxes and bad weather."

The article goes on to say that "Census Bureau records show that between 2020 and 2023 outmigration cost New York state 882,676 people. In raw numbers, New York's net loss from its population of 20 million is second only to California, another high-cost state, which lost 1.2 million people to other states from its population of 39 million.

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Those losses are offset to some extent by about 360,000 people from other states and other countries who moved into New York in that same time period, resulting in a net loss of 520,458.”

Election Data Services, Inc., an independent Virginia-based research firm that specializes in congressional apportionment projects that New York could be on course to lose up to three congressional districts after the 2030 census if these population trends continue.

After the 2020 census, the state only lost one congressional district. After 2010 and 2000, the state lost two districts in each cycle and three districts after the 1990 census. After 1980, the state lost a national record of five districts.

You can read the Newsday report here: <https://bit.ly/3zsQ2C2> (this may be firewalled).

## **Census Bureau Releases 2023 1-Year American Community Survey Estimates, Provides Updated Data on New York Population**

The Census Bureau released American Community Survey (ACS) 2023 1-year estimates on September 12, 2024. The ACS is an ongoing survey that provides updated data every year, covering a broad range of topics regarding demographic, economic, housing, and social characteristics of the U.S. population.

Detailed tables, subject tables, data profiles, comparison profiles, and selected population profiles are available for the nation, all 50 states, the District of Columbia, and Puerto Rico, as well as all congressional districts, metropolitan areas, counties, and places (i.e., towns or cities) with populations of 65,000 or more. The following is based on this updated data.

New York City: For populations and people, the 2023 ACS 1-year estimates reported that the median age in New York City was 38.8 years old. Individuals 65 years and older comprised 17.6% of New York City’s population. Of that population, 9.8% of individuals were between 65 and 74 years old, 5.5% were between 75 and 84 years old, and 2.1% were 85 years and older.

For languages spoken at home, 48% spoke at least one language other than English. The types of language spoken at home were estimated as: 52.0% English; 22.6% Spanish; 13.2% other Indo-European languages; 8.9% Asian and Pacific Islander languages; and 3.4% other languages.

For income and earnings, the median household income was \$76,577. Approximately 18.2% of the population lived in poverty. Of this population, 24.5% of individuals were under 18 years old, 15.3% of individuals were between 18 and 64 years old, and 21.5% were 65 years and older.

The employment rate was 59.9% in New York City. The most common industry for the civilian employed population was “educational services, and health care and

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social assistance,” which accounted for 28.5% of workers. For housing, the median gross rent was \$1,748. The most common monthly rent was between \$1,500 to \$1,999, which accounted for 21.2% of renters. The homeownership rate was 32.5% for all NYC residents.

For education, 42.5% of the population had attained a bachelor’s degree or higher. School enrollment, including kindergarten to 12th grade, amounted to 63.5%.

New York State: The 2023 ACS 1-year estimates reported that the median age in New York was 40.2 years old. The older population, or individuals that are 65 years or older, comprised 18.6% of the population. For languages spoken at home, 31% spoke a language other than English.

For housing, the median gross rent was \$1,561, while the homeownership rate was 54.1%. The median household income was \$82,095. Approximately 14.2% of New York State residents lived in poverty. The employment rate was 59.7%. Local, state, and federal government workers accounted for 16.1% of the population. The average travel time to work was 32.8 minutes.

For education, 40.6% of the population had attained a bachelor’s degree or higher. School enrollment, including kindergarten to 12th grade, amounted to 64.3%.

For more information on the ACS 2023 1-year estimates, [click here](#). For more information on New York’s demographics and the margins of error for each data point, [click here](#).

### **U.S. House Committee Requests Post Enumeration Data Survey Information from Census Bureau**

U.S. House Committee on Oversight and Accountability Chairman James Comer (R-Ky) sent a letter to U.S. Census Bureau Director Robert Santos requesting documents and communications regarding alleged inaccuracies from the 2020 Census.

Comer’s letter argues that the Post-Enumeration Survey (PES), which is designed “to measure the accuracy of” the decennial census, detected errors in the final population count in several states, including overcounts in New York, Massachusetts, Rhode Island, Hawaii, Delaware, Minnesota, Utah and Ohio while detecting undercounts in Florida, Tennessee, Texas, Arkansas, Kentucky, and Illinois.

Comer argues that a majority of the states with overcounts are predominately states that vote Democratic while the undercounted traditionally vote Republican and that there may have been undue political influence on the non-partisan census process. As a result, Comer is requesting documents and communications related to any overcount or undercount in a state, any “errors and deficiencies,” and between the Census Bureau officials and Office of Secretary of US Department of Commerce or the White House relating to the PES. He has set an October 2nd deadline for the documents. The timing of Congressman Comer’s request so close to Election Day

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also raises questions why this this request is being sent so late after the release of the PES data.

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