

Dept. of Justice: AG Kaul prevails against Trump Administration; court rules undocumented immigrants must be included in congressional apportionment

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MADISON, Wis. – Attorney General Josh Kaul today announced that a court has stopped the Trump Administration by stopping the president's attempts to exclude undocumented immigrants from the apportionment base following the census count.

"A three-judge panel has unanimously concluded that President Trump's effort to rig the Census by changing who is included in the apportionment base violates the law," said Attorney General Kaul. "I will continue standing up to attempts by the Trump administration to undermine a fair Census."

In July, a coalition of states, cities, and counties [filed a lawsuit](#) against President Trump after the administration announced in a presidential memorandum intent to exclude undocumented immigrants from the apportionment base. However, the Constitution is abundantly clear: For purposes of apportioning members of the House of Representatives among the states, every person residing in the U.S. during the census, regardless of legal status, must be counted.

Yesterday, a three-judge court agreed with Attorney General Kaul and the coalition that President Trump's plan to exclude undocumented immigrants from the apportionment base was unlawful. The court stated, "The merits of the parties' dispute are not particularly close or complicated." In the decision, the court held that President Trump was violating the law by seeking to change the apportionment base, and that "the President must act in accordance with, and within the boundaries of, the authority that Congress has granted. For the reasons discussed above, we conclude that the President did not do so here and that the Presidential Memorandum is an ultra vires violation of Congress's delegation of its constitutional responsibility to count the whole number of persons in each State and to apportion members of the House of Representatives among the States according to their respective numbers."

Attorney General Kaul was joined in this lawsuit with attorneys general of Colorado, Connecticut, Delaware, Hawaii, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New Mexico, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia, Washington, and the District of Columbia. The attorneys general are joined by the cities of Central Falls, RI; Chicago, IL; Columbus, OH; New York, NY; Philadelphia, PA; Phoenix, AZ; Pittsburgh, PA; Providence, RI; Seattle, WA; and the city and county of San Francisco. Additionally, Cameron, El Paso, and Hidalgo Counties in Texas, Monterey County in California, and Howard County in Maryland have joined the lawsuit. Also joining is the U.S. Conference of Mayors.

Press release: <https://www.doj.state.wi.us/news-releases/ag-kaul-prevails-against-trump-administration-court-rules--undocumented-immigrants-must>

Court decision: https://www.doj.state.wi.us/sites/default/files/news-media/9.11.20_Census_Decision.pdf