



Legal Services and Tenant's Rights

Ugochi Anaebere-Nicholson, Directing Attorney, Housing and
Homelessness Prevention Unit, PUBLIC LAW CENTER

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PLC MISSION

The Public Law Center (PLC), Orange County's pro bono law firm, is committed to providing access to justice for low income residents. Through volunteers and staff, the Public Law Center provides free civil legal services, including counseling, individual representation, community education, and strategic litigation and advocacy to challenge societal injustices.



Tenants' Rights

State Law

1. Establish Tenancy

- If unit is primary residence.
- Illegal to make residential hotel tenant move before 30 days if sole purpose is to avoid creating a tenancy.

2. Rights—

- Can only be evicted if the landlord goes through the proper procedures (Unlawful Detainer action).
- Cannot be illegally locked out.
- Right to decent, healthy conditions.
- Special rules if in transitional, subsidized housing or mobilehome owner.



Type of tenancies

- Periodic
- Lodgers: Person who lives in a room in a house where the owner lives. The owner can enter all areas occupied by the lodger and has overall control of the house. Can terminate upon 30 days' written notice, and use of law enforcement if the lodger refuses to leave after the notice expires.

Changing the lease

- A landlord's ability to change the terms of a tenancy depends on the tenant's cooperation level, tenancy type, the terms of the tenant's lease or rental agreement, and the nature of the change.
- Month to Month Tenants. Generally, a landlord can change a the terms of a month-to- month tenancy by giving a written 30 day notice of change of terms of tenancy.
 - If the change is a rent increase, 60 days' notice is required to increase rent if the current increase plus all previous increases within the last year are cumulatively more than 10%.
 - If specified in the rental agreement, the time period can be reduced to as little as seven days under Civil Code §827.

Change in terms of tenancy

- Term Tenants. If the Lease Authorizes the Change. A landlord can make a change with notice if the lease has a provision allowing the change, and if the provision is enforceable. The most common change of this type involves rules and regulations, which can be changed with advance written notice if that right is reserved in the lease.
- If the Lease Doesn't Specifically Authorize the Change.
 - With Tenant Consent. If the tenant and landlord both agree to the change, the parties can either (1) execute a new lease or rental agreement that includes the new clause, or (2) amend the existing lease or rental agreement.
 - Without Tenant Consent. If the tenant will not agree to the change, the landlord cannot change the lease during a fixed term. However, when the fixed term lease ends, the landlord can make the change, either through a new/renewal lease, or if the tenant is to continue on a month-to-month basis, with a 30 day notice of change of terms of tenancy. If the change is a rent increase of more than 10% (when combined with all other rent increases in the last year), a 60 day notice of change of terms of tenancy is required.

Type of tenancies

- Subsidized Housing (special protection for those who receive Section 8 Housing Choice Voucher or who reside in subsidized housing; good cause is required to evict.)
- Mobilehome tenancies: governed by Mobilehome Residency Law (owners only); tenants who reside in a mobilehome, state law will govern the termination of their tenancy.

Change in terms of tenancy

- Periodic Tenancies. Tenancies which are of a periodic term of less than month-to-month (such as a week to week tenancy) require notice equivalent to the term itself. If specified in the rental agreement or lease, the time period can be reduced to as little as seven days under Civil Code §827.

Ownership changes...now what?

- Notice of Change in Property Owner or Manager:
- Tenants must be notified within 15 days of a change in ownership or management. Civil Code §1962. The notice should include the name, street address or telephone number of either the (1) property owner or (2) the person who is authorized to manage the premises and accept service of notices, demands and service of process on behalf of the landlord. The notice should include updated payment instructions (e.g. name, address, phone number, days of the week and hours payments will be accepted) if that information has changed.

Recent State law changes

- State law prohibits landlords from retaliating by disclosing immigration status to immigration officials or other government agencies.
- The law creates a cause of action against a landlord or an attorney who seeks to use a tenant's immigration status for the purpose of or with the intent of. . . retaliating against a tenant for the exercise of his or her rights. It provides for additional statutory remedies and attorney's fees for violating the law.
- The law also provides for an affirmative defense to an eviction for a tenant who is being harassed or retaliated against on the basis of their status.

Recent State law changes

- AB 2343 (2019): Eliminates calendar and holidays from the count for responding to certain types of eviction notices (nonpayment and covenant breaches); only count court days when responding to an eviction (five court days)
- AB 2219 (2019): Amends state law (Civ. Code sec. 1947.3), to require a landlord to accept third-party payment on behalf of a tenant facing eviction.
- AB 2413 (2019): Prohibits a landlord from evicting a tenant for using emergency services.

Recent State law changes cont'd.

- SB 329 (waiting signature): Will amend state law to include Section 8 housing choice vouchers among the class of people protected from source of income discrimination.
- AB 1482 (waiting signature): Provides for limits of rent increases via rent cap of 5% + CPI for certain housing, and provides just cause eviction protections for eligible tenants. Has a retroactive lookback period regarding rent increases to March 15, 2019.

Tenants with criminal histories

- There is federal guidance and state regulatory authority that provides fair housing protections for tenants who have criminal histories.
- HUD guidance
https://www.hud.gov/sites/documents/HUD_OGCGUIDAPPFHASTANDCR.PDF (2016)
- State DFEH regulatory guidance, effective January 1, 2020.

Protections for tenants with disabilities

- ADA, Section 504 of the Rehabilitation Act of 1973 and the Fair Housing Amendments Act all guarantee that qualified persons with disabilities will not be excluded from participation in public programs or housing because of their disabilities.
- State law offers additional, independent state disability rights protections. State law prohibits disability discrimination by any program or activity that is funded by or receives state financial assistance.

Protections for tenants with disabilities

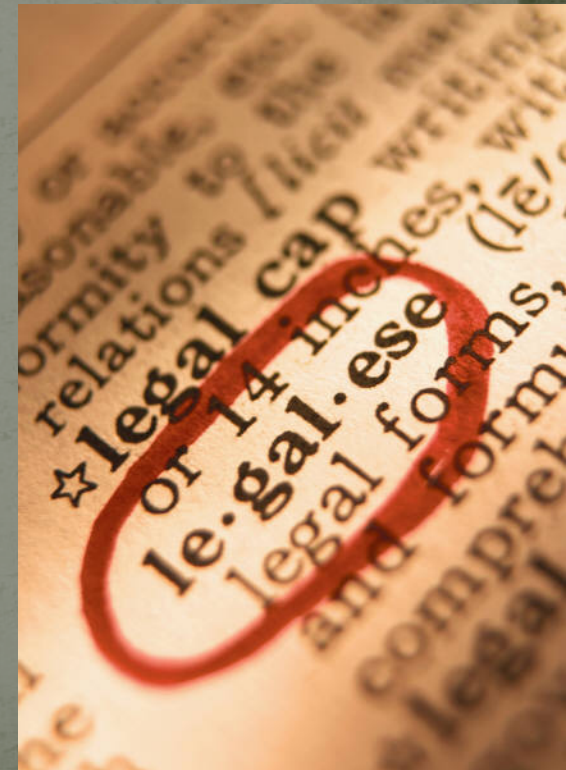
- Reasonable Accommodation
 - Preferable if written, but not required; no magic words needed. Must, however, be reasonable and articulate necessity.
 - Defense: Direct Threat
 - Defense: Undue Financial Burden
 - Defense: Fundamental Alteration
- Reasonable Modifications
 - Note that Tenant may have to bear expense of modification
 - Defense: Undue Financial Burden
 - Defense: Fundamental Alteration

Introduction to Eviction Defense

- It is important to know what type of housing that the tenant has because the rights and protections that are available to the tenant will depend on the type of housing of the tenant.
- If the tenant is unsure, ask the tenant how much rent they have. Chances are, if the tenant is paying a small sum in the amount of rent, their housing is subsidized.

Eviction Process

- Must be given written notice
- Served with “Unlawful Detainer” complaint
 - Must answer within 5 court days
- Trial
 - If Tenant wins, then must pay rent and can stay at the property
 - If Tenant loses, Tenant is locked out by Sheriff, after a Writ of Possession obtained and a Notice to Vacate posted (5 days notice).



Landlord sues. Now what? What are my rights?

- Service of eviction notice (3, 30, 60, 90)
- Expiration of eviction notice
- Service of Unlawful Detainer
- Response to Unlawful Detainer (shortest timeframe is 5 court days when personally served; additional time when service of UD Summons and Complaint is done by substituted service or post and mail- latter of which requires a court order).
- Default if tenant fails to timely respond.

Defenses

- Defective notice
- Breach of the Warranty of Habitability
- Waiver
- Estoppel
- Discrimination for Failure to Provide Reasonable Accommodations
- Discrimination based on Race, National origin, sex, family status, gender, age, religion, presence of children in the household, and source of income
- Section 8 voucher
- Retaliation
- Homeownership
- Post-Foreclosure *

*Not an exhaustive list



Litigation Timeline

- Trial must be heard in 20 days CCP 1170.5
- Filings
 - Demurrer/Motion to Quash
 - Answers
 - Discovery: Interrogatories, Request for Document Production, and Special Interrogatories
 - Motion for Summary Judgment
 - Counter Request for Jury Trial
- Default Judgment
 - Ex Parte Motion to Vacate Judgment
- Trial

Questions?

- Please contact:

Ugochi Anaeberé-Nicholson

Directing Attorney

Housing & Homelessness Prevention Unit

Public Law Center

(714) 541-1010

unicholson@publiclawcenter.org



PROVIDING ACCESS TO JUSTICE
FOR ORANGE COUNTY'S LOW INCOME RESIDENTS

Some Helpful Resources and links

- California Department of Consumer Affairs California Tenants Guide (2012), available in English and Spanish, at <http://www.dca.ca.gov/publications/landlordbook/catenant.pdf>.
- Unruh Act – Civil Code Section 51; Ralph Civil Rights Act – Civil Code Section 51.7 (provides protection from hate crimes. It prohibits violence or threats of violence based on: Age. Ancestry. Color).
- Fair Employment and Housing Act- Government Code Section 12955 et seq.
- Americans with Disabilities Act- 42 U.S.C. Section 12101, et seq.
- Section 504 of the Rehabilitation Act of 1973
- Fair Housing Act 42 U.S.C.A. Section 3601-3631
- Fair Housing Amendments
- www.ADA.gov (guidance on reasonable accommodations and reasonable modifications, as well as guidance on rights of people with disabilities in employment and public accommodations).
- www.HUD.gov (guidance on use of criminal history for housing, reasonable accommodation, and anti-discrimination in housing).
- Department of Fair Employment and Housing- www.dfeh.ca.gov.

2020 Census and CCC Overview



Presented By Dina Duella
U.S. Census Bureau, Orange County, CA

It is in the Constitution.

“The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct.”

Article One, Section Two

Constitution of the United States of America

- **Apportionment**
- **Redistricting**
- **Distribution of Funds**
- **Inclusive Event**
- **Civic Engagement**
- **Democracy**

| TIMELINE | OPERATION |
|----------------------|--------------------------------------|
| August 2019 | Address Canvassing (AC) |
| March 2020 | Update/Leave (UL) |
| March 2020 | Service Based Enumeration (SBE) |
| March 2020 | Group Quarters Enumeration (GBE) |
| March 12-20 | Self-Response |
| April 1, 2020 | Census Day |
| April 2020 | Early Non-Response Follow-up (ENRFU) |
| May 2020 | Non-Response Follow-up (NRFU) |

WHAT WE WILL SEND IN THE MAIL

| On or between | You'll receive: |
|------------------|--|
| March 12-20 | An invitation to respond online to the 2020 Census. (Some households will also receive paper questionnaires.) |
| March 16-24 | A reminder letter. |
| | If you haven't responded yet: |
| March 26-April 3 | A reminder postcard. |
| April 8-16 | A reminder letter and paper questionnaire. |
| April 20-27 | A final reminder postcard before we follow up in person. |

We understand you might miss our initial letter in the mail.

- Every household that hasn't already responded will receive reminders and will eventually receive a paper questionnaire.
- It doesn't matter which initial invitation you get or how you get it—we will follow up in person with all households that don't respond.

Your Answers are Protected by Title 13 of the U.S. Code

- ✓ The Census is confidential and required by law
- ✓ Results of the Census are reported in a statistical format only
- ✓ We do not share respondent personal information with other government agencies
- ✓ All Census employees swear to a lifetime oath to protect respondent information
- ✓ Penalties for wrongful disclosure - Up to 5 years imprisonment and/or a fine of \$250,000

Supporting Linguistically Diverse Populations Language Access

Available in Spanish

- Enumerator Instruments (hand-held)
- Paper questionnaire and other mailings
- Field enumeration materials

12 non-English languages

Spanish, Chinese (simplified), Vietnamese, Korean, Russian, Arabic, Tagalog, Polish, French, Haitian Creole, Portuguese, Japanese

- Internet option - online questionnaire
- Census Questionnaire Assistance (CQAs)

Items available in 59 non-English languages

- Language glossary
- Language identification card
- Language Guides - Print and Video

Additional efforts from the Census Bureau

- Partner with grassroots organizations to localize the Census message
- Hire locally



JOIN THE 2020 CENSUS TEAM

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2020census.gov/jobs

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Complete Count Committees

Bring a structured, focused, and unified outreach and communication campaign to their communities

Tribal, state, and local governments work together with partners in their communities to form CCCs to promote the 2020 Census to their constituents. Community-based organizations also establish CCCs that reach out to their constituents.

2020CENSUS.GOV

Committee members are experts in the following areas:

- Government
- Education
- Media
- Community Organizations
- Workforce Development
- Faith-Based Community
- Business
- Other, based on needs

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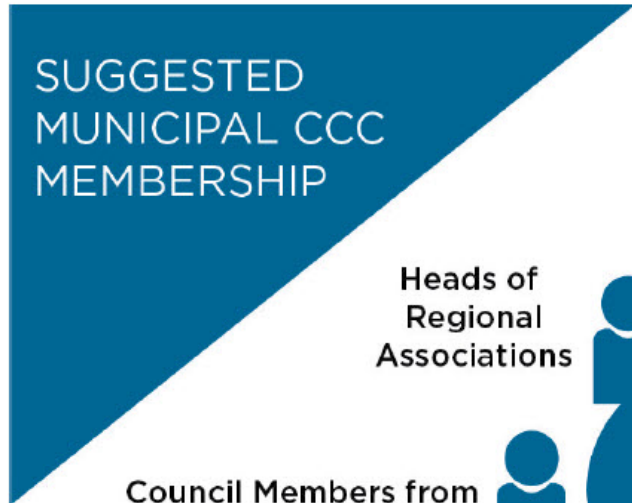
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Forming the CCC

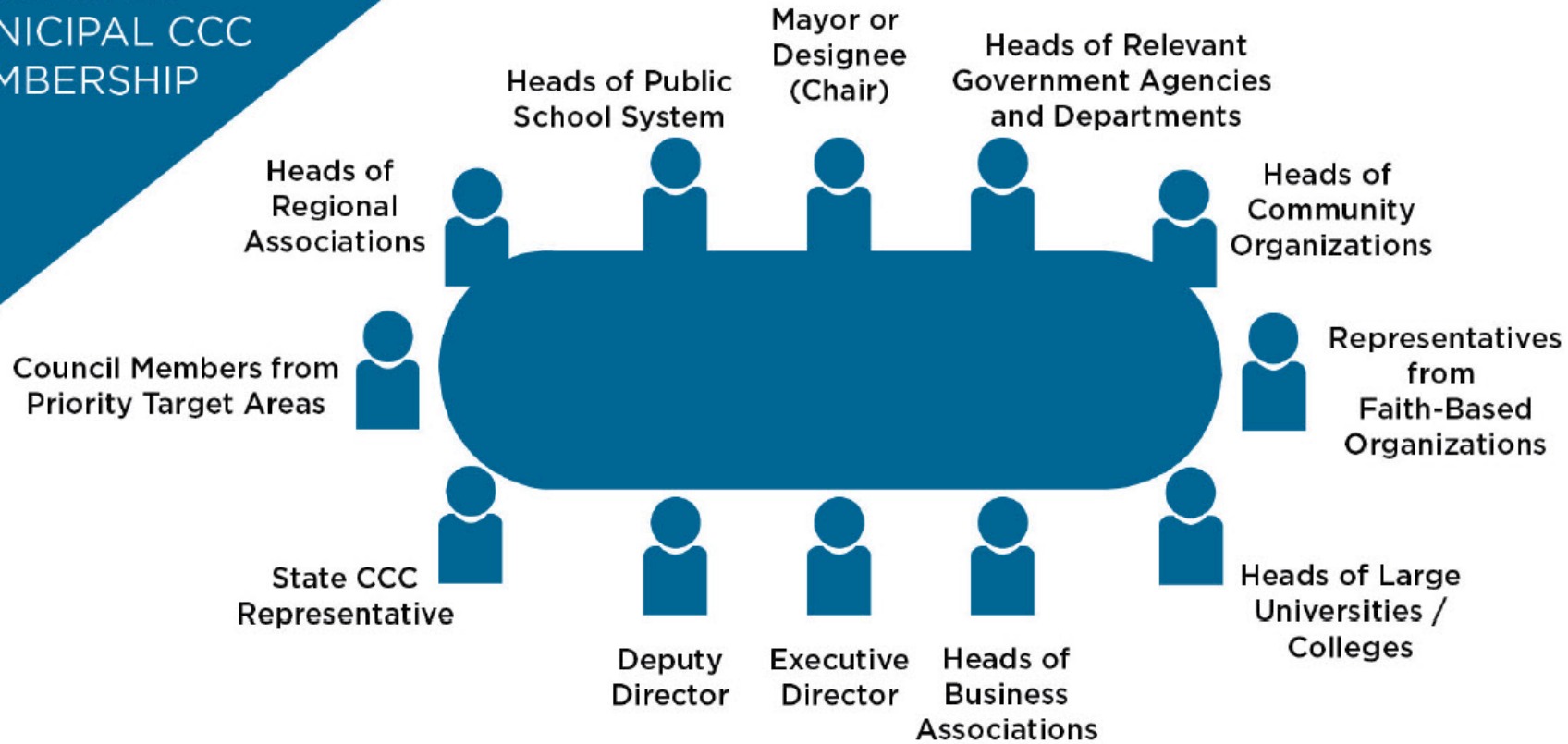
Key Points About the CCC Structure

- The CCC should be all-inclusive, addressing the various racial, ethnic, cultural and geographic considerations of the community
- Census Bureau staff serve as liaisons and information resources for the CCC
- CCC operations are governed by the highest elected official or community leader

Suggested CCC Membership



SUGGESTED
MUNICIPAL CCC
MEMBERSHIP



**Partnership Specialist is advisor and
Census liaison to Municipal CCC's*

Timeline - Key Communications

The 2020 Census Phases

Education Phase – 2018-2019

Awareness Phase – April 2019

Motivation Phase – March – May 2020

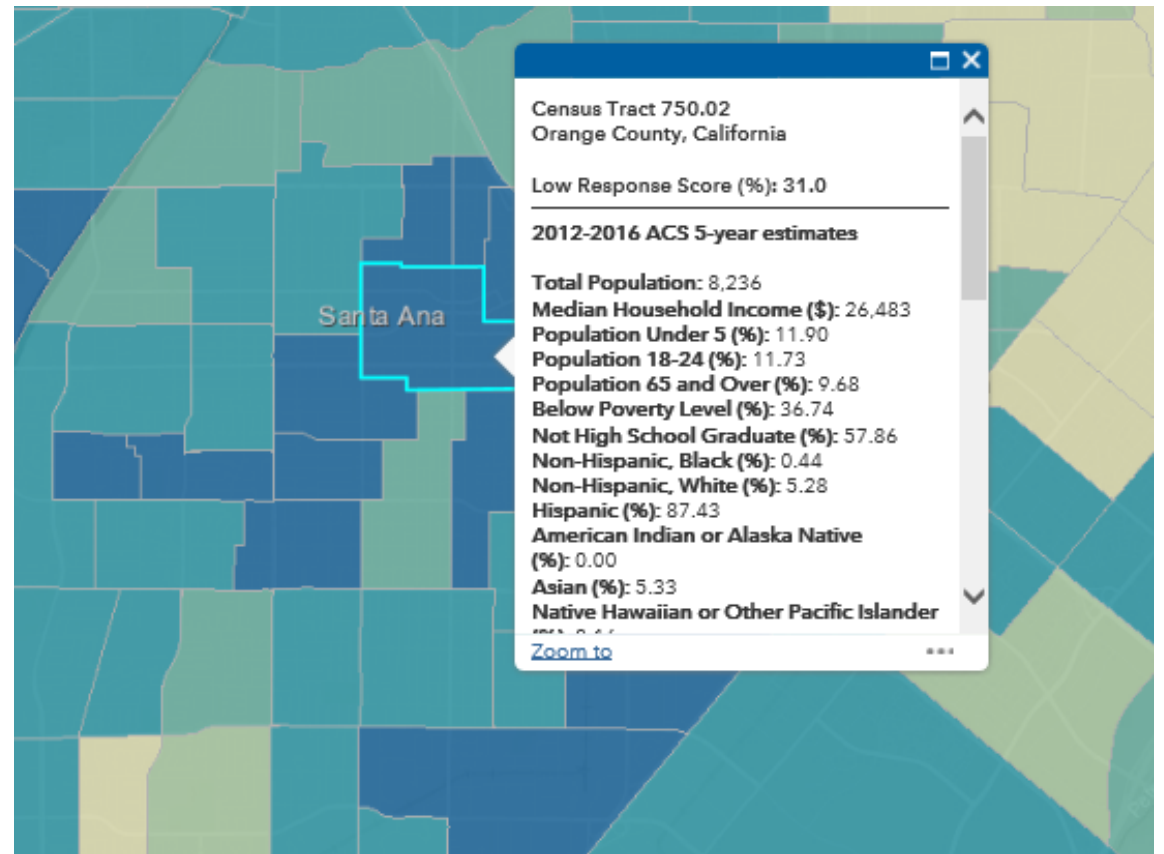
Reminder Phase – May – July 2020

Thank You Phase – Starts July 2020

Local governments and community leaders throughout the nation participate in activities highlighting the message that the 2020 Census is imminent and that it is easy, important and safe to participate.

Response Outreach Area Mapper (ROAM)

- Public mapping application that displays characteristics of hard-to-count areas from the PDB
- 2012-2016 ACS 5-year estimates
- Census tract level
- <https://www.census.gov/roam>



Next Steps

- Help generate your community's readiness for the 2020 Census
- Work to mobilize your community and form or join Complete Count Committees
- Invite partnership specialists to present at your network meetings
- Apply for Census jobs and help us recruit diverse staff for ACOs

Contact Information

Dina Duella

Partnership Specialist

714-925-6170

dina.a.duella@2020census.gov

Group Quarters Operations

2020 Census

What is a Group Quarter (GQ)?

A GQ is a place where people who are not related, live or stay in a group living arrangement, that is owned or managed by an entity or organization providing housing and/or services for the residents.

- Examples
 - College residence hall
 - Skilled nursing facility
 - Military barracks
 - Group home
 - Correctional Facility
 - Workers' dormitory
 - Transitional Shelter
 - Residential Treatment Center
 - Religious housing like a convent or monastery
 - Soup Kitchen



How are GQs Enumerated?

- There are 3 operations to count people in GQs. GQs are in every TEA.
 - Advance Contact
 - 5 week operation
 - Service-Based Enumeration/TNSOL
 - 3 day enumeration to provide opportunities for people who are experiencing homelessness. This includes enumerating at Shelters, Soup Kitchens, Mobile Food Vans and Outdoor Locations
 - Group Quarters Enumeration
 - 6 weeks to enumerate everything else

GQ Advance Contact

GQ Preparation Stage

- Verify GQ Address and Facility Contact Information
- **Determine Facility's Enumeration Method**
- Collect Expected Population as of Census Day/April 1.
- Determine GQ Type
- Schedule Enumeration appointment
- Determine any special needs information
 - Language requests
 - Safety and security issues
- Using GQAC PCS
- Process for all added GQs start in GQAC.

SBE & GQE

Enumeration Methods

- Two Types
 - Electronic (preferred)
 - Paper Based

Important Dates

- Conduct Advance Contact
 - Feb 2020 to March 2020
- Conduct Service Based Enumeration (SBE)
 - 3/30/20-4/1/20
- E-Response
 - April 1, 2020 to May 1, 2020
- Group Quarters Enumeration
 - April 2020 to June 2020