



The Education Trust

Closing the gaps in opportunity and achievement, pre-K through college.

December 10, 2018

Samantha Deshombres, Chief
Regulatory Coordination Division, Office of Policy and Strategy
U.S. Citizenship and Immigration Services
Department of Homeland Security
20 Massachusetts Avenue N.W.
Washington, DC 20529-2140

RE: DHS Docket No. USCIS-2010-0012, RIN 1615-AA22, Comments in Response to Proposed Rulemaking:
Inadmissibility on Public Charge Grounds

Dear Ms. Deshombres:

On behalf of The Education Trust (Ed Trust), an organization dedicated to closing long-standing gaps in opportunity and achievement that separate low-income students and students of color from their peers, thank you for the opportunity to comment on notice by the Department of Homeland Security (“the Department”) of its proposed rule setting forth new “public charge” grounds for inadmissibility. Ed Trust strongly opposes the proposed rule, as it will diminish children’s access to adequate nutrition, reliable health care, and stable housing. This cruel rule will do lasting damage to children’s emotional wellbeing and readiness to learn, thereby undermining the nation’s economic and civic health.

We strongly urge the Department to withdraw the proposed rule in its entirety.

For close to a century,ⁱ U.S. immigration law has used the term “public charge” to mean a person *primarily* dependent on the government for subsistence.ⁱⁱ The proposed rule vastly expands this definition to include individuals who simply receive one of the enumerated nutrition, health care, or housing benefits. The public charge designation has a profound effect on immigrant families, for it can bar an individual from entry to the U.S. or disqualify an applicant from legal permanent residency (“LPR”). By attaching extraordinary immigration penalties to such a wide range of vital benefits, the proposed rule would cause families to forego food, health, or housing benefits out of fear that receiving them would jeopardize the legal presence and family unity provided by a visa or LPR status. This will have a direct and harmful effect on children’s wellbeing.

What’s more, even families whose immigration status would be unaffected by the proposed rule will be deterred from seeking access to nutrition, health care, and housing programs. For example, when a major overhaul of federal welfare law in 1996 rendered immigrants — but not their U.S. citizen children — ineligible for federally-funded benefits, more than half of the U.S. citizen children with an immigrant parent nonetheless dropped from the food stamps program.ⁱⁱⁱ The legislation’s “chilling effect was enormous.”^{iv} The proposed rule would similarly trigger widespread, unnecessary, and harmful loss of support for children, including for United States citizen children.^v An estimated 26 million people may potentially disenroll or refuse public benefits because of this proposed rule, including approximately 9.2 million children in immigrant households, representing approximately 13 percent of our nation’s child population.^{vi}

In fact, the chilling effect of the proposed rule has already begun to take hold. Agencies in at least 18 states have already reported enrollment drops of up to 20 percent in the Special Supplemental Nutrition Program for Women, Infants, and Children (“WIC”)^{vii} despite the fact that WIC is not included in the proposed rule.

Impact on Students in P-12

Those with experience in our schools can readily attest to the effects of inadequate nutrition, a lack of routine medical care, and destabilized living situations on students. The proposed rule would drastically increase these barriers to education and development.

For example, public health insurance coverage positively impacts education attainment.^{viii} Research shows that such coverage, which is mainly available through Medicaid, increases high school graduation rates.^{ix} Without Medicaid, families will be forced to delay doctors’ visits, skip immunizations, and forego prescriptions. Forced choices like these sicken entire classrooms and learning falls behind.

Another significant concern is the threat to food security through SNAP. Good nutrition is an important part of a healthy lifestyle for children because it improves their ability to grow and develop. Nutrition assistance programs effectively reduce food insecurity by helping people purchase healthy food they would not otherwise be able to afford, thereby increasing healthy eating. A robust research base shows that SNAP improves food security, dietary intake, and health, especially among children, and with lasting effects.^x In addition, hunger greatly impacts a child’s performance and behavior in school. For example, students who experience hunger have worse academic outcomes and are more likely to repeat a grade.^{xi}

The threats to food security and healthcare are only compounded by the inclusion of housing assistance in the proposed rule. When children are in an unstable housing environment, their education suffers.^{xii} The loss of federal housing assistance will increase the risk of students living in unsafe, overcrowded, and unstable housing. Housing instability, coupled with other stressors, results in high levels of parental stress that can harm children’s cognitive development and lower educational attainment.^{xiii}

While parents do their best to shield their children from these realities, children inevitably absorb the stress as well. Severe parental stress of this kind affects a child’s brain development and capacity to learn.^{xiv} The proposed rule would only increase the risk that children will experience this harm.^{xv} Both parents and pediatricians report that children are experiencing high levels of fear related to current immigration-related policies and rhetoric, which are negatively affecting their behavior and performance in school.^{xvi}

Impact on Students in Higher Education

The proposed rule would discourage immigrant youth and U.S.-born youth with non-citizen parents from pursuing a college education and would increase families’ financial instability.

The changes could significantly decrease enrollments in higher education: While public education benefits, such as Pell Grants or other financial aid, are not included under the rule, the fear and confusion generated by the rule would deter greater numbers of immigrant young adults who are eligible for federal and state-funded aid programs from applying to college altogether. More than a quarter of undergraduates nationally in higher education are first or second generation immigrant students, and one in five come from a household in which English is not the primary language spoken.^{xvii}

Pell Grants are targeted to meet students with the greatest financial need at public and private institutions, providing the largest awards to the lowest-income students. Public institutions account for more than two-thirds of Pell recipients (68 percent), with 36 percent of public four-year students receiving Pell Grants, and

32 percent of community college students who are Pell recipients.^{xviii} In addition, community colleges have a much higher proportion of low-income and immigrant students than other higher education sectors. Fearing that the public charge would pertain to Pell Grants or other public education benefits, many immigrant students may mistakenly avoid applying for Pell or any state or financial aid and will be unable to afford college without it.

Further, as noted by the National Skills Coalition, “the rule would increase college students’ financial instability and heighten their risk of dropping out. Many college students are part of larger households – either as adult children or as spouses and parents themselves.”^{xix} We know that when students and their families are unable to meet core living and housing needs or face higher costs, the students are less likely to pursue educational and career pathways, more likely to cut back on their educational course load, or drop out altogether. While not directly affected by the public charge, the proposed regulations could discourage undocumented immigrant youth from pursuing a postsecondary education and who in the future may have the opportunity to adjust their status and further contribute to our communities and our country.

Ed Trust believes that all students deserve the fundamental security provided by adequate food, health care, and housing. These supports are critical for students to meaningfully engage at school and reach their greatest potential. For all of the above reasons, we urge you to withdraw this harmful proposed rule in its entirety.

Sincerely,



John B. King Jr.
President and CEO
The Education Trust

ⁱ Kelly Whitener, *What Does Public Charge Mean for Immigrant Families?*, GEORGETOWN UNIV. CTR. FOR CHILDREN & FAMILIES, May 2, 2018, <https://ccf.georgetown.edu/2018/05/02/what-is-public-charge-and-what-does-it-mean-for-immigrant-families/>

ⁱⁱ Under current policy, one is only “primarily dependent” on the government for subsistence if he or she obtains more than 50% of his or her income from either (i) the receipt of public cash assistance for income maintenance or (ii) institutionalization for long-term care at government expense. *See, e.g.*, Department of Justice, Immigration & Naturalization Serv., Field Guidance on Deportability and Inadmissibility on Public Charge Grounds, 64 Fed. Reg. 28689 (May 26, 1999).

ⁱⁱⁱ Dara Lind, *Trump is Proposing a Regulation that Could Change the Face of Legal Immigration — by Restricting Low-income Immigrants*, Vox, Sept. 24, 2018, <https://www.vox.com/2018/9/24/17892350/public-charge-immigration-food-stamps-medicaid-trump>.

^{iv} *Id.*

^v Jonathon Blitzer, *Trump’s Public-Charge Rule Is a One-Two Punch Against Immigrants and Public Assistance*, THE NEW YORKER, Sept. 24, 2018, <https://www.newyorker.com/news/dispatch/trumps-public-charge-rule-is-a-one-two-punch-against-immigrants-and-public-assistance>.

^{vi} 2012-2016 5-Year American Community Survey Public Use Microdata Sample (ACS/PUMS); 2012-2016 5-Year American Community Survey (ACS) estimates accessed via American FactFinder; Missouri Census Data Center (MCDC) MABLE PUMA-County Crosswalk. Custom Tabulation by Manatt health, 9/30/2018. Found online at: <https://www.manatt.com/Insights/Articles/2018/Public-Charge-Rule-Potentially-Chilled-Population>.

^{vii} Helena Bottemiller Evich, *Immigrants, Fearing Trump Crackdown, Drop Out of Nutrition Programs*, POLITICO, Sept. 4, 2018, <https://www.politico.com/story/2018/09/03/immigrants-nutrition-food-trump-crackdown-806292>.

^{viii} Sarah Cohodes et al., *The Effect of Child Health Insurance Access on Schooling: Evidence from Public Insurance Expansions* 4, 5 & 23 (Nat’l Bureau of Econ. Research, Working Paper No. 20178, 2014), available at <https://www.nber.org/papers/w20178>.

^{ix} *Id.* at 4.

^x Heather Hartline-Grafton, *SNAP and Public Health: The Role of the Supplemental Nutrition Assistance Program in Improving the Health and Well-Being of Americans*, Food Research & Action Center, 2013.

^{xi} Food Research & Action Center, *Breakfast for Health*, <http://frac.org/wp-content/uploads/breakfastforhealth-1.pdf>.

^{xii} See, e.g., Press Release, U.S. Department of Education, Education Department Releases Guidance on Homeless Children and Youth (Jul. 27, 2016), available at <https://www.ed.gov/news/press-releases/education-department-releases-guidance-homeless-children-and-youth>; U.S. Dep't of Educ. & U.S. Dep't of Health and Human Servs., Dear Colleague Letter: Elementary and Secondary Education Act (June 23, 2016), available at <https://www2.ed.gov/policy/elsec/leg/essa/edhhsfostercaredcl.pdf>.

^{xiii} HIROKAZU YOSHIKAWA, IMMIGRANTS RAISING CITIZENS UNDOCUMENTED PARENTS AND THEIR YOUNG CHILDREN 23-24 (2011); Heather Sandstrom & Sandra Huerta, *The Negative Effects of Instability on Child Development: A Research Synthesis* 28-32 (Urban Inst., Low-Income Working Families, Discussion Paper No. 3, 2013), available at <https://www.urban.org/sites/default/files/publication/32706/412899-The-Negative-Effects-of-Instability-on-Child-Development-A-Research-Synthesis.PDF>.

^{xiv} National Scientific Council on the Developing Child, *Persistent Fear and Anxiety Can Affect Young Children's Learning and Development* (Ctr. on the Developing Child at Harvard U., Working Paper No. 9, 2010), available at <http://www.developingchild.net/>; Maya Rossin-Slater, *Promoting Health in Early Childhood*, 25 THE FUTURE OF CHILDREN 35 (2015).

^{xv} See, e.g., American Academy of Pediatrics, *Policy Statement on Early Childhood Adversity, Toxic Stress, and the Role of the Pediatrician: Translating Developmental Science Into Lifelong Health*, 129 PEDIATRICS e224, e225 (2012); National Scientific Council on the Developing Child, *Persistent Fear and Anxiety Can Affect Young Children's Learning and Development* (Ctr. on the Developing Child at Harvard U., Working Paper No. 9, 2010), available at <http://www.developingchild.net/>.

^{xvi} Samantha Artiga & Petry Ubri, *Living in an Immigrant Family in America: How Fear and Toxic Stress are Affecting Daily Life, Well-Being, & Health*, KAISER FAMILY FOUNDATION, Dec. 13, 2017, available at <https://www.kff.org/report-section/living-in-an-immigrant-family-in-america-issue-brief/>.

^{xvii} Sources: U.S. Department of Education, National Center for Education Statistics, 2011-12 National Postsecondary Student Aid Study; 2016 American Community Survey, Department of the Census, U.S.

^{xviii} Spiros Protopsaltis and Sharon Parrot, "Pell Grants--A Key Tool for Expanding College Access and Economic Opportunity--Need Strengthening, Not Cuts," Center on Budget and Policy Priorities, July 27, 2017 https://docs.google.com/document/d/1FVKs_KDat81WvqZTg8Sm_4Wyk25pYsLmUinsgxKqItE/edit?ts=5bc61576

^{xix} Taken with permission from the National Skills Coalition's template on the proposed Public Charge order.