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By ESEC External at 3:57 pm, Mar 08, 2021

Hon. Alejandro Mayorkas  
Secretary  
U.S. Department of Homeland Security  
Washington, DC 20528

Cc: Joseph B. Maher, Acting General Counsel, DHS; Cass Sunstein, Senior Counselor, Department of Homeland Security; Dr. Marcella Nunez-Smith, Dr. David Kessler, and Dr. Vivek Murthy, Co-Chairs of COVID-19 Task Force; Jeff Zients, Coordinator, COVID-19 Task Force; Tracy Renaud, Senior Official Performing the Duties of the Director, USCIS; Felicia Escobar Carrillo, Chief of Staff, Office of the Director, USCIS; Amanda Baran, Chief, Office of Policy and Strategy, USCIS; and A. Ashley Tabaddor, Chief Counsel, USCIS; Tyler Moran, Special Assistant to the President for Immigration, Domestic Policy Counsel; Esther Olavarria, Deputy Director of the Domestic Policy Council for Immigration.

Dear Secretary Mayorkas:

The undersigned organizations affiliated with the Protecting Immigrant Families coalition urge you to end the Trump Administration's public charge rule by directing the Department of Justice to withdraw its appeals on litigation challenging the Trump DHS public charge regulations, while DHS moves forward on regulatory action. This is the fastest and most permanent way to make good on President Biden's campaign commitment -- memorialized in Executive Order 14012 -- to repeal the public charge rule.

The current public charge policy is directly harming immigrants and their families and undermining our country's pandemic response. Since their implementation on February 24, 2020, [research has shown](#) that the Trump Administration's public charge regulations have effectively denied millions in immigrant families the help they need, contributing to rising hunger, poverty, and unmet health care needs, before and during the COVID-19 pandemic.

The pandemic has taken the heaviest toll on those already bearing the burdens of health disparity and economic marginalization resulting from centuries of institutional racism. According to the [U.S. Centers for Disease Control and Prevention](#), the COVID-19 case rate, hospitalization rate, and death rate are all significantly higher for people of color. And as both [clinicians](#) and [researchers](#) have documented, immigrants and their families face additional obstacles, including policies like public charge that discourage access to testing and care. The current public charge policy also poses a significant threat to effective COVID-19 vaccine



distribution. To the degree that immigrant families consider vaccination a potential threat to immigration status, vaccination efforts will suffer, prolonging the health crisis and delaying economic recovery.

The best way to protect the country and implement the president's policy is to act on all fronts to mitigate the harm and reverse the Trump regulations. This requires four main steps.

- **Direct the Justice Department to withdraw its appeals of all lawsuits challenging the regulation.** This will invalidate the Trump public charge rule permanently nationwide. The status quo ante -- the Immigration and Naturalization Service's March 26 , 1999, Field Guidance on Deportability and Inadmissibility on Public Charge Grounds "1999 INS Field Guidance" -- would become our nation's policy again. This includes withdrawing the cert petitions from the Second, Seventh and Ninth Circuits, the pending Second Circuit appeal of a preliminary injunction during the pendency of the pandemic, and the pending Seventh Circuit appeal of a summary judgment decision vacating the Rule nationwide. Withdrawing these appeals would allow the district court orders vacating and enjoining the Rule to go into effect and would return the status quo on this issue to the 1999 guidance while the agencies undertake an appropriate process to adopt a new rule. The Protecting Immigrant Families coalition strongly supports this approach as the best way to halt the severe and well-documented chilling effects of the Trump policies, and mitigate the risk that the Trump regulations come back into effect in the future.
- **Protect future agency rule-making.** The decisions on the Trump public charge rule define the outer limits of the meaning of public charge. No path to ending cases should come at the cost of vacating important precedent.
- **Communicate to immigrants and their families that the policy has been reversed and that it is safe to access health, nutrition, and other programs for which they are eligible without fear of immigration consequences.** If the 2019 rule is invalidated, the 1999 INS Field Guidance will become DHS's public charge policy again. This means that immigrants and their family members can access health and nutrition programs, and many other programs as well, without concerns that it will affect their immigration status. As has been widely reported, misinformation about the policy's reach has led families to forgo or withdraw not only from programs covered by the Trump regulations, but also from WIC, CHIP, and even [disaster assistance programs](#) like Pandemic-EBT. Relevant agencies (DHS and DOS, but also HHS, USDA, HUD, Education, Treasury, and the White House) should leverage all available communication channels, including grant funding, to inform immigrant families. In concert with these communications, DHS should withdraw the I-944 "Declaration of Self Sufficiency" form, and update the I-485



and the USCIS policy manual to conform to the 1999 Field Guidance. The Protecting Immigrant Families coalition and its member organizations have been working to educate families for years, and we would welcome the opportunity to share what we have learned.

- **Develop and issue new public charge regulations as soon as possible.** Given the urgent need for a more permanent change and the time-consuming nature of regulatory development, the regulatory work needs to begin now. The Protecting Immigrant Families coalition would welcome the opportunity to share our thinking about how you can cement and modernize the 1999 INS Field Guidance.

The President recognized months ago that the Trump public charge regulations are bad policy. He noted that the policy is both wrong, in that it “runs counter to our values as Americans and the history of our nation,” and dangerous, exactly the sort of “barriers that prevent immigrants from accessing government services available to them” that the President ordered agencies to remove.

Every day the Trump policy remains in force increases the health and economic danger to the nation. It is critical that the regulations be reversed effectively and completely. It is no less critical that the regulations be reversed quickly.

Thank you for considering this request. Please contact Eddie Carmona, [carmona@nilc.org](mailto:carmona@nilc.org) and Renato Rocha, [rrocha@clasp.org](mailto:rrocha@clasp.org) with the Protecting Immigrant Families campaign with any questions or concerns.

Sincerely, the undersigned

ACLU-WV  
African Services Committee  
African Women and Development  
Alabama Coalition for Immigrant Justice  
Alianza Nacional de Campesinas  
American Academy of Pediatrics  
Arte Sana  
Asian & Pacific Islander American Health Forum  
Asian American Legal Defense and Education Fund (AALDEF)  
Asian Health Services



Asian Law Alliance  
Asian Pacific Institute on Gender-Based Violence  
Asian Resources, Inc  
ASISTA  
Aspire for Humanity Initiatives  
Association of Asian Pacific Community Health Organizations (AAPCHO)  
Autistic Self Advocacy Network  
Bangor - Carasque El Salvador Sister Cities Project  
Bet Tzedek  
Black Owned Maine Media  
Boundless Immigration Inc.  
Bread for the World  
BrightHouse Inc  
Building One Community  
Cabrini Immigrant Services of NYC  
California Immigrant Policy Center  
California Partnership to End Domestic Violence  
California WIC Association  
Cambodian Community Association of Maine  
CASA  
Catholic Legal Immigration Network, Inc.  
Center for Economic Policy and Research  
Center for Law and Social Policy (CLASP)  
Centro Del Inmigrante, Inc.  
Children's HealthWatch  
Coalition on Human Needs  
Colorado Latino Leadership Advocacy and Research Organization  
Community Action Marin  
Community Catalyst  
Community Clinic Association of Los Angeles County  
Congregation of Our Lady of Charity of the Good Shepherd, U.S. Provinces  
Connecticut Shoreline Indivisible  
CPCA  
CRLA Foundation  
D. C. Hunger Solutions  
DC Dorothy Day Catholic Worker



East Bay Sanctuary Covenant  
Emerald Isle Immigration Center  
Empowering Pacific Islander Communities (EPIC)  
Enlace Chicago  
Equality California  
Families USA  
Family Crisis Center, Inc.  
Family Crisis Services, Inc.  
Food Research & Action Center  
Futures Without Violence  
Gateway Community Services Maine  
Greater Boston Legal Services  
Guttmacher Institute  
Health Law Advocates  
ICNA CSJ  
Idaho Coalition Against Sexual & Domestic Violence  
ideas42  
Illinois Chapter, American Academy of Pediatrics  
Illinois Coalition for Immigrant and Refugee Rights (ICIRR)  
Immigrant Legal Advocacy Project (ILAP)  
Immigrant Legal Resource Center  
Inland Coalition for Immigrant Justice  
Jane Doe Inc.  
Jewish Family Service of Los Angeles  
Jewish Family Service of San Diego  
Justice in Aging  
Kansas Coalition Against Sexual and Domestic Violence  
Korean Community Center of the East Bay  
KRC Korean Resource Center  
Latino Policy Forum  
Legal Aid Society of San Mateo County  
Liberal Area Rape Crisis & Domestic Violence Service Inc, dba LARC DVS  
Los Angeles Regional Food Bank  
Maine Business Immigration Coalition  
Maine Equal Justice  
Maine Immigrants' Rights Coalition



Maine MultiCultural Center  
Maryland Hunger Solutions  
Massachusetts Immigrant and Refugee Advocacy Coalition  
Massachusetts Law Reform Institute  
Massachusetts Senior Action Council  
MAZON: A Jewish Response to Hunger  
Michigan Immigrant Rights Center  
Michigan League for Public Policy  
National Advocacy Center of the Sisters of the Good Shepherd  
National Alliance to End Sexual Violence  
National Coalition Against Domestic Violence  
National Health Law Program  
National Immigration Law Center (NILC)  
National Resource Center on Domestic Violence  
Nebraska Coalition to End Sexual and Domestic Violence  
NETWORK Lobby for Catholic Social Justice  
Nevada Coalition to End Domestic and Sexual Violence  
Never Again Action RI  
New Jersey Coalition To End Domestic Violence  
New York Immigration Coalition  
NICOS Chinese Health Coalition  
NM Center on Law and Poverty  
Northwest Health Law Advocates  
Northwest Regional Primary Care Association  
Nourish California  
Oasis Legal Services  
Ohio Alliance to End Sexual Violence  
Ohio Domestic Violence Network  
Pomona Economic Opportunity Center  
Power in Community Alliances  
Prevention Institute  
Progreso Latino  
ProsperityME  
Radical Public Health (RPH) at University of Illinois at Chicago  
Rainbow Pride Youth Alliance  
RESULTS



Rhode Island KIDS COUNT  
San Bernardino Community Service Center  
San Francisco-Marin Food Bank  
Service Employees International Union  
Silver State Equality-Nevada  
South Carolina Appleseed Legal Justice Center  
The Children's Partnership  
The Economic Progress Institute  
The Workers Circle  
Ujima Inc.: The National Center on Violence Against Women in the Black Community  
Unified Asian Communities  
Washington Coalition of Sexual Assault Programs (WCSAP)  
Welcoming Immigrant Neighbors- Bangor  
Welcoming The Stranger  
Wisconsin Coalition Against Sexual Assault  
Wisconsin Faith Voices for Justice  
Community Health Care Association of New York State

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*The Protecting Immigrant Families coalition brings together more than 500 organizations representing health, economic security, child welfare, civil and immigrant rights, food security, faith and social justice, and other sectors united to protect and defend access to health care, nutrition programs, public services and economic supports for immigrants and their families at the local, state, and federal level.*



U.S. Citizenship  
and Immigration  
Services

March 18, 2021

Eddie Carmona  
Protecting Immigrant Families Campaign  
P.O. Box 34573  
Washington, DC 20043

Dear Mr. Carmona:

Thank you for your March 8, 2021 letter requesting that the Department of Homeland Security (DHS) end the *Inadmissibility on Public Charge Grounds* final rule (84 Fed. Reg. 41292 (Aug. 14, 2019)) (“Public Charge Final Rule”). Secretary Mayorkas asked that I respond on his behalf.

On February 2, 2021, the President issued Executive Order 14012, directing the Secretary of Homeland Security to review DHS actions related to the implementation of the public charge ground of inadmissibility. Consistent with the Executive Order, DHS has begun its review, as well as its consultation with other relevant agencies.

Since March 9, 2021, DHS is no longer applying the Public Charge Final Rule but is instead making public charge inadmissibility determinations consistent with the minimum statutory factors set forth in section 212(a)(4) of the Immigration and Nationality Act and the 1999 Field Guidance on Deportability and Inadmissibility on Public Charge Grounds (“1999 Interim Field Guidance”).<sup>1</sup> This means that U.S. Citizenship and Immigration Services (USCIS) is no longer considering the receipt of Medicaid (except for Medicaid for long-term institutionalization), public housing, or Supplemental Nutrition Assistance Program benefits as part of a public charge inadmissibility determination. In addition, USCIS is not considering medical treatment or preventative services for COVID-19, including vaccines as part of a public charge inadmissibility determination. USCIS is also not applying the separate, but related, “public benefits condition” to applications and petitions for extension of nonimmigrant stay and change of nonimmigrant status.

DHS Secretary Mayorkas also announced that the government will no longer defend the Public Charge Final Rule, as doing so is neither in the public interest, nor an efficient use of limited government resources. Consistent with the government’s decision not to defend the rule, the Department of Justice (DOJ) took action to discontinue further review of judicial decisions invalidating or enjoining enforcement of the Public Charge Final Rule. DOJ requested, and the Supreme Court granted dismissal of all public charge cases pending for Supreme Court review. The government also moved to dismiss appeals pending before the Seventh and Fourth Circuits.

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<sup>1</sup> 64 Fed. Reg. 28689 (May 21, 1999)



USCIS has published updates and web alerts to relevant webpages found on <https://www.uscis.gov> informing stakeholders that the Public Charge Final Rule is no longer in effect and informing them about the changes that will occur as a result. Moreover, USCIS removed the policy guidance related to the Public Charge Final Rule from its Policy Manual and eliminated all new forms or amendments to forms associated with the Public Charge Final Rule. On March 15, 2021, DHS published a rule rescinding the regulatory provisions promulgated by the Public Charge Final Rule. See *Inadmissibility on Public Charge Grounds; Implementation of Vacatur* (86 Fed. Reg. 14221).

Consistent with Executive Order 14012 on *Restoring Faith in Our Legal Immigration System and Strengthening Integration and Inclusion Efforts for New Americans*, USCIS is working with its interagency partners to identify recommended steps to be taken to clearly communicate current public charge policies and proposed changes, if any, to reduce fear and confusion among impacted communities. We look forward to partnering with community stakeholders, including members of the Protecting Immigrant Families Campaign, on these important and ongoing public awareness efforts.

Thank you again for your letter and interest in this important issue. Should you require any additional assistance, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "Tracy L. Renaud". The signature is written in a cursive, flowing style.

Tracy L. Renaud  
Senior Official Performing the Duties of the Director