

# HEALTHY SCHOOLS CAMPAIGN

EVERY CHILD DESERVES TO LEARN + THRIVE

December 6, 2018

**Sent via Electronic Submission at <https://www.regulations.gov>**

Samantha Deshommes, 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. Deshommes:

I am writing on behalf of Healthy Schools Campaign to express strong opposition to the Department of Homeland Security's (DHS) proposed Rule on "Inadmissibility on Public Charge Grounds", published in the Federal Register on October 10, 2018. DHS has provided insufficient justification for why changes are necessary at this time and potential impact of the proposed rule would be devastating to children and families. As a result of the negative impact on children and families, we strongly urge that the proposed rule be withdrawn in its entirety, and that the 1999 guidance remain in effect.

Healthy Schools Campaign is dedicated to ensuring all students and staff have access to a school environment that supports the critical connection between health and learning. Through our work at the national, state and local levels, we have seen the tremendous benefits programs such as Medicaid, SNAP and housing assistance, have on children and their families. Children who come to school without breakfast, who miss class because of untreated illness or go absent as their families move from place to place are far less likely to be successful in school and as contributing members of the workforce.

For close to a century,<sup>1</sup> U.S. immigration law has used the term "public charge" to mean a person *primarily* dependent on the government for subsistence.<sup>2</sup> The proposed rule vastly expands this

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<sup>1</sup> 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/>.

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 is 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.<sup>3</sup> The legislation’s “chilling effect was enormous.”<sup>4</sup> The proposed rule would similarly trigger widespread, unnecessary, and harmful loss of support for children.<sup>5</sup> In fact, the chilling effect of the proposed rule has already begun to take hold. Agencies in at least eighteen states have already reported enrollment drops of up to twenty percent in the Special Supplemental Nutrition Program for Women, Infants, and Children (“WIC”)<sup>6</sup> despite the fact that WIC is not included in the proposed rule.

Educators can readily attest to the effects of inadequate nutrition, a lack of routine medical care, and destabilized living situations on students. These factors contribute to disruptive behavior, inattention in class, absenteeism, and incomplete work. In other words, a marked decline in the quality of education follows, for both directly affected students and their peers. The proposed rule would drastically increase these barriers to education and development.

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<sup>2</sup> 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).

<sup>3</sup> 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>.

<sup>4</sup> *Id.*

<sup>5</sup> 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>.

<sup>6</sup> 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>.

For example, public health insurance coverage positively impacts education attainment.<sup>7</sup> Research shows that such coverage, which is mainly available through Medicaid, increases high school graduation rates.<sup>8</sup> The inclusion of Medicaid as a program that can disqualify someone from gaining citizenship or maintaining a visa in the U.S. will have immediate repercussions for children's healthcare access inside and outside of school. Without Medicaid, families will be forced to delay doctors' visits, skip immunizations, and forego prescriptions. Forced choices like these sicken entire classrooms, impacting the learning of all students.

Since the news of the proposed regulation broke over the last few months, some districts are reporting that parents who are fearful about the impact of the public charge regulation are proactively revoking consent for districts to bill Medicaid for costly services under the Individuals Disabilities Education Act (IDEA) that schools provide to children who qualify for special education. Medicaid reimbursement for special education services is a critical funding source for school districts. Districts with large numbers of immigrant children will struggle to meet their commitments under IDEA if parents are scared to give their consent to billing Medicaid.

The threats to food security and health care are only compounded by the inclusion of housing assistance in the proposed rule. When children are in an unstable housing environment, their education suffers.<sup>9</sup> 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.<sup>10</sup>

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.<sup>11</sup> The proposed rule would only increase the risk that children will experience

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<sup>7</sup> 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>.

<sup>8</sup> *Id.* at 4.

<sup>9</sup> 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>.

<sup>10</sup> 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>.

<sup>11</sup> 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

this often-irreversible harm.<sup>12</sup> 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.<sup>13</sup>

Finally, the notice of proposed rulemaking also asked whether accessing the Children's Health Insurance Program (CHIP) should also impede a child's or family's ability to stay in the U.S. The answer is a resounding no. The health program, which was just reauthorized on a bipartisan basis in Congress, has provided an invaluable service to immigrant children by ensuring that they can access healthcare providers and address healthcare issues early. If families are deterred from participating in the CHIP program then children will be more reliant on emergency health services for basic medical care and lack the preventative care that can ensure they do not need emergency services in the future. By reducing the likelihood that children seek medical care when appropriate, the Administration would be making a costly financial and public health mistake.

Healthy Schools Campaign believes that all children deserve the fundamental security provided by adequate food, health care, and housing. It is only with such supports in place that students can 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,



Rochelle Davis  
President and CEO

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<http://www.developingchild.net/>; Maya Rossin-Slater, *Promoting Health in Early Childhood*, 25 THE FUTURE OF CHILDREN 35 (2015).

<sup>12</sup> 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/>.

<sup>13</sup> 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/>.