



December 10, 2018

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

Re: DHS Docket No. USCIS-2010-0012, RIN 1615-AA22, Comments in Opposition to Proposed Rulemaking: [Inadmissibility on Public Charge Grounds \(Federal Register Oct. 20, 2018\)](#)

Dear Ms. Deshommes:

The National Council of Nonprofits submits these formal Comments in strong opposition to the proposed rule by the Department of Homeland Security (DHS) for determining when someone applying for immigration status is “inadmissible to the United States under section 212(a)(4) of the Immigration and Nationality Act (INA) because he or she is likely at any time to become a public charge.” Additionally, we oppose adding the Children’s Health Insurance Program (CHIP) to the list of disqualifying public benefits. We urge DHS to withdraw the proposed rule and cease any further consideration.

### **The interests of the National Council of Nonprofits and charitable nonprofits**

The National Council of Nonprofits works with and through our unique nationwide and sector-wide grassroots network – the nation’s largest network of charitable nonprofits – to identify emerging trends, share proven practices, and promote solutions that benefit the work of charitable nonprofits and the hundreds of million people they serve.

Charitable nonprofits work in every community throughout the country, whether caring for returning soldiers, educating children, rebuilding cities, training the workforce, nursing the sick, supporting elders, elevating the arts, mentoring youth, protecting natural resources, nurturing souls, promoting diversity, equity, and inclusion, and much more. The overwhelming majority of charitable nonprofits are small, community-based organizations; 92 percent have budgets under \$1 million. As front-line providers of services and as organizations grounded in their communities, charitable nonprofits interact with virtually every person in America, including new, recent, and longstanding immigrants.

The National Council of Nonprofits strongly opposes the proposed rule regarding a “public charge” determination because the rule would violate core American principles, operate as an unfunded mandate by imposing billions of dollars of costs onto charitable nonprofits, and negatively affect the operations of charitable nonprofits.

### **What the proposed rule would do.**

According to the [U.S. Citizenship and Immigration Services](#), DHS would apply the proposed rule whenever determining if someone “who is applying for a visa, admission, or adjustment of status is likely at any time to become a public charge.” The proposed rule would require immigration applicants to “demonstrate that they have not received, are not currently receiving, nor are likely to receive public benefits.” 83 Fed.Reg. 51114. The rule would define “public benefit” to include monetizable and noncash benefits relating to “medical care, housing, and food benefit programs.”

Many charitable nonprofits are concerned that the proposed policy would instill such fear in immigrants and their families that it would discourage them from using public services – even in situations of dire life and death. A [letter signed by more than 1,500 organizations](#) expresses strong opposition to the proposed regulation on the grounds that it “threatens to worsen hunger, poverty, and unmet health and housing needs.” Additionally, inclusion of certain government programs aimed at helping individuals and families in lower economic strata, such as the Supplemental Nutrition Assistance Program (SNAP, commonly referred to as food stamps) and Section 8 housing, further segregates the immigrant population by socio-economic status and race.

Additionally, many of the more than 130,000 comments already submitted regarding this proposed rule focus primarily on the adverse impact on families and individuals. We share the concerns of the [National Human Services Assembly](#), submitted in this rulemaking on November 26, and associate ourselves with its comments.

**The proposed rule runs counter to the bedrock American principles of life, liberty, and the pursuit of happiness.**

The core values of charitable nonprofits are the core values of America: that all people are created equal and have certain unalienable rights, including life, liberty, and the pursuit of happiness. As mission-based groups, charitable nonprofit organizations serve as a community’s backbone, providing social infrastructures where individuals come together, regardless of race, class, gender, age, or national origin. The proposed rule threatens these core values by causing disparate treatment of immigrants and immigrant families, threatening the very makeup of our communities and country.

DHS’ proposed rule turns its back on these core American values. Immigrants here legally would quite reasonably be afraid to utilize vital services that support life – even when they have great need. Almost all individuals and families – newly arrived immigrants and otherwise – face times when they have unmet basic needs such as food, medical, and shelter. Non-immigrants can turn to government programs created to help meet those very needs. But immigrants would not, forcing them to make an impossible choice between getting medical assistance to a child versus being able to become lawful citizens.

People who like the proposed rule may choose to point to potential exceptions that are buried in parts of the proposed rule. But an immigrant mom with a child who suddenly became severely sick in the middle of the night probably won’t have the luxury of calling an attorney to advise whether the situation fits an exception or even think about what might be in the fine print of an unknown regulation. The situation would be patently unfair.

**The proposed rule would shift billions of dollars in financial costs from governments to the backs of charitable nonprofits, putting many out of business.**

Under the proposed rule, immigrants seeking public benefits through various programs, including non-emergency Medicaid, Medicare, SNAP, Section 8 Housing Choice Voucher Program, Section 8 Project-Based Rental Assistance, and Public Housing, would risk losing their immigration status if they utilize these life-saving programs. But just because the government issues new rules limiting access to human services does not address or reduce the underlying human needs. Immigrants with dire needs will be forced to turn somewhere for help. For-profit corporations won’t help them, and the proposed rule tells them that governments won’t help. The one place people turn: charitable nonprofits.

Fearing the adverse consequences of the government finding out that they or a family member experienced actual human needs, immigrants undoubtedly will turn to local, frontline nonprofits to seek needed services to avoid interfacing with government. Yet most nonprofit organizations (87 percent) already report that the [demands for their services continue to rise](#), at the same time that they also have insufficient financial and human resources to meet the increased demands. The overwhelming majority of charitable nonprofits are small, community-based organizations; 92 percent of nonprofits have budgets under \$1 million. Charitable nonprofits cannot easily absorb an influx of neighbors in need. Many nonprofits will feel compelled by faith, law, or their personal values to provide services to people in need who fear the federal government will discriminate against them for getting sick or being in distress – as happens to all human beings.

This shift in responsibility from governments to nonprofits is a hidden unfunded mandate (hidden in the sense that the projected “Costs and Benefits” section of the proposed rule fails to even mention this reality). The proposed rule, if implemented, would increase pressures and stress on nonprofit board and staff members to try to raise more money and divert scarce resources away from other community priorities. While the “Costs and Benefits” section does not directly identify the financial burdens the rule would place on nonprofits, it does project that the total annual transfer payments that governments would “save” would be \$22.7 billion over a 10-year period. It will cost nonprofits at least the same amount when immigrants turn to nonprofits for assistance. Where does DHS dream that charitable nonprofits can come up with that amount of money to deliver the services still required to meet basic human needs?

To put this in focus, the proposed rule is estimated to threaten the [health and well-being of about 9 million children](#), including immigrant children and citizen children of immigrants. In a population of 9 million non-immigrant children, there will be a certain percentage who become injured or ill, need general healthcare and dental checkups, and so on. Assuming the needs of immigrant and non-immigrant children are the same, an equal number would need regular, emergency, and specialized medical treatment in each group. The non-immigrant children will get treatment. But the proposed policy would scare immigrant parents away from treatment, allowing unchecked illnesses to worsen, untreated diseases to spread, and unattended injuries to create and exacerbate other problems. When people finally turn to their local charitable nonprofit or house of worship for help, the dangers and costs of treatment have multiplied. The costs and burdens on nonprofits stepping in to fill the void, the costs on private philanthropy to subsidize the government’s direct duties, and the costs on society over time from untreated items not caught and treated earlier will not only put those children at serious risk, but also nonprofits trying to serve them.

### **Charitable nonprofits serve charitable purposes, not government enforcement.**

The proposed regulations raise the likelihood that individuals seeking changes in immigration status will be deemed [inadmissible or deported on public charge](#) grounds. When threats of deportation and other government enforcement actions arise, immigrants and threatened populations turn to charitable nonprofits, houses of worship, and other safe spaces for protection. These independent organizations are mission-oriented and serve the public good; they most definitely are not arms of the government.

The bulk of those submitting comments expect the proposed rule to foster fear in immigrant communities and cause them to avoid government programs by turning to nonprofit organizations for services. Should DHS or other government departments and agencies take further steps to detain or deport immigrants, those government entities may try to force nonprofit organizations to seek the names, immigration status, and other personal information of those they serve. Rather than trying to survive by going to non-government resources like nonprofits to receive life-saving support,

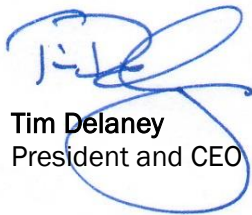
immigrants may grow wary or suspect of the charitable organization, further eroding public trust and denying access to needed services.

To be clear, the federal government can neither conscript charitable nonprofits and houses of worship nor expect them to be complicit in the enforcement of government policies. DHS should not forget the visceral public anger generated in opposition to previous anti-immigrant actions, including efforts to mandate state and local governments to assist in deportations (that have led many jurisdictions to declare themselves to be sanctuaries), the attempted travel bans in 2017, and the addition of an unnecessary and extremely divisive citizenship question on the 2020 Census.

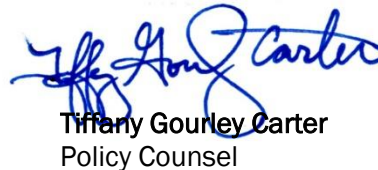
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The National Council of Nonprofits submits these Comments expressing strong opposition to the proposed rule and urges DHS to withdraw the proposed rule in its entirety. No additional change should be considered in the public charge determination, and we oppose the addition of Children's Health Insurance Program (CHIP), which would compound the adverse effects expressed herein.

Respectfully submitted,



**Tim Delaney**  
President and CEO



**Tiffany Gourley Carter**  
Policy Counsel