

December 10, 2018

The Honorable Kirstjen M. Nielsen
U.S. Department of Homeland Security
20 Massachusetts Avenue, NW
Washington, D.C. 20529

**Re: DHS Docket No. USCIS-2010-0012-0001, Comments in Response to Proposed Rulemaking:
Inadmissibility on Public Charge Grounds**

Madam Secretary:

I am writing on behalf of the Ford Foundation to express our strong opposition to the Department of Homeland Security's Notice of Proposed Rulemaking ("proposed rule") on "public charge," published in the Federal Register on October 10, 2018. For the first time in our country's history, the rule would make an income threshold a key factor in immigration decisions. Having an income of under \$15,000 for a single person, or \$31,000 for a family of four, would be weighed negatively and could lead to a denial. To avoid scrutiny under the proposed rule, a family of four would need to earn more than \$62,000 per year—higher than the median income in the United States.¹

The proposed rule runs directly counter to our mission of challenging inequality. Across eight decades, the Ford Foundation has worked to reduce poverty and injustice, strengthen democratic values, promote international cooperation, and advance human achievement. The proposed regulation would radically change immigration policy to favor the wealthy and privileged, and turn away those with limited means.

We believe in the safety and dignity of all people, and therefore support efforts to advance more rational and humane immigration policy. The proposed rule would be profoundly harmful to immigrants, their families, and the communities in which they live. It would create—and indeed, has already caused—a chilling effect, as immigrant families are afraid to seek programs that support their basic needs, even on a short-term basis.² The proposed rule could deter documented, working immigrants from using the programs their tax dollars help support, including health care, healthy, nutritious food, and secure housing.³ The fear created by the rule would extend far beyond immigrants who would be subject to it, harming entire communities as well as the infrastructure that serves them, including schools, hospitals, and clinics.⁴ All of these consequences are identified in the proposed rule itself, under costs; a substantial body of evidence demonstrates that they are highly significant and damaging.

The proposed regulation would directly impact our grantees, their constituents, and their members. The organizations we support have long worked to modernize public benefits to make them accessible to the

¹ <https://www.census.gov/library/publications/2018/demo/p60-263.html>

² Allison Bovell-Ammon, Boston Medical Center, Stephanie Ettinger de Cuba, Boston University School of Medicine, Diana Cutts, Hennepin County Medical Center, and Sharon M. Coleman, Boston University School of Public Health, "Trends in food insecurity and SNAP participation among immigrant families of US born young children" (November 2018), <https://apha.confex.com/apha/2018/meetingapp.cgi/Paper/416646>.

³ Manatt Health "Public Charge Proposed Rule: Potentially Chilled Population Data Dashboard" (New York, NY: Manatt Health, October 2018), <https://www.manatt.com/insights/articles/2018/public-charge-rule-potentially-chilled-population>

⁴ Fiscal Policy Institute "Only Wealthy Immigrants Need Apply: How A Trump Rule's Chilling Effect Will Harm the U.S." (New York, NY: FPI, 2018) <http://fiscalfpolicy.org/public-charge>.

workforce of the future. Grantees also focus on ensuring that low-income families have access to stable and affordable housing.

If enacted, the proposed regulation would put millions of working class immigrant families at greater risk of poverty, hunger, homelessness, and other hardships—and destabilize communities around the country. Specifically, the proposed changes would deem immigrants potentially unacceptable if they have received, or are considered likely to receive, even a modest amount of assistance from several non-cash supports, including Medicaid, the Supplemental Nutrition Assistance Program (SNAP), housing supports (including Section 8 vouchers), and subsidies for Medicare Part D to reduce the cost of prescription drugs. The proposal also gives negative weight to children and seniors, persons with limited English proficiency, poor credit history, limited education, or a large family.

In recent years, we have committed to addressing the needs, concerns, and priorities of people with disabilities throughout our programming. We are therefore very distressed by the impact the proposed rule will have on immigrants with disabilities and their families. Many people with disabilities would be screened out as likely to become a “public charge” under the proposed rule. The rule significantly increases the consideration of an individual’s health, and the impact that having a chronic health condition or disability has on being determined a public charge. These and other provisions in the proposed rule are based on an unreasonable new interpretation of what it means to be a “public charge,” and will directly hurt and exclude people with disabilities. The proposed rule reflects a harmful, outdated and inaccurate prejudice that people with disabilities are not contributors to society—a perspective that Congress has explicitly rejected in multiple statutes, including the Americans with Disabilities Act.

While the preamble asserts that “the mere presence of a medical condition would not render an individual inadmissible,” the reality is that the proposed rule would effectively exclude people with disabilities simply because they have a disability based on the proposed factors and how they are weighed. For example, the new standard includes any medical condition likely to require extensive medical treatment or institutionalization, or that will interfere with a person’s ability to provide and care for him or herself, to attend school, or to work. Most people with disabilities will have this factor weigh against them in the public charge determination. The preamble also states that absence of a diagnosis of such a condition would be a positive factor—clearly, virtually no people with disabilities will be able to meet this positive factor.

For all of these reasons, the Ford Foundation stands firmly against the intent and the effects of these proposed changes.

Immigration has always been a source of strength and vitality for the United States. Restricting pathways to residency and citizenship to those who are well-off will harm millions of people. It also runs counter to long-term American interests and values.

I hope you will reconsider the proposed rule and uphold existing policy regarding how immigrants and their family members access public benefits.

Sincerely,

Darren Walker
President, Ford Foundation