



Contra  
Costa  
County

To: Board of Supervisors  
From: Kathy Gallagher, Employment & Human Services Director  
Date: October 23, 2018

Subject: Amend County's Adopted Federal Legislative Platform to Include Opposition to Proposed Changes to Rules Related to "Public Charge"

**RECOMMENDATION(S):**

CONSIDER amending the County's 2018 Federal Legislative Platform to include opposition to proposed changes to rules related to 'public charge'.

ADOPT a position of oppose to new regulations on 'public charge' released for public comment in the Federal Register on October 10, 2018, as recommended by Kathy Gallagher, Director, Employment and Human Services Department (EHSD), Anna Roth, Director, Health Services Department (HSD), and Joseph Villarreal, Executive Director, Contra Costa Housing Authority.

DIRECT staff to send a letter to the Secretary of the Department of Homeland Security, the U.S. Senate and House Leadership, and the Contra Costa Federal Congressional Delegation to declare the Board's opposition to the proposed rule change to 'public charge' determinations and express the significant harm it would cause to Contra Costa County and its residents.

DIRECT staff to draft and submit public comment responses consistent with opposing the proposed regulations during the 60-day public comment period, which spans from publication of the proposed rule change in the Federal Register on October 10, 2018, through December 10, 2018.

DIRECT EHSD, HSD, and the Housing Authority to collaborate with community-based

APPROVE

OTHER

RECOMMENDATION OF CNTY  
ADMINISTRATOR

RECOMMENDATION OF BOARD  
COMMITTEE

Action of Board On: **10/23/2018**  APPROVED AS RECOMMENDED  OTHER

Clerks Notes:

**VOTE OF SUPERVISORS**

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: October 23, 2018

Contact: Devorah  
Levine, 608-4890

David J. Twa, County Administrator and Clerk of the Board of  
Supervisors

By: , Deputy

cc:

organizations and other relevant stakeholders to assist in providing public education and outreach to residents about available County services and available community resources, such as the Immigrant Legal Resource Center, Catholic Charities, Stand Together CoCo, 211, and the Women Infant and Children's (WIC) program, which are all NOT included in public charge determinations under the proposed rule.

## FISCAL IMPACT:

There is no fiscal impact.

## BACKGROUND:

On October 10, 2018 the Department of Homeland Security (DHS) published proposed changes to the ‘public charge’ rules in the Federal Register. A ‘public charge’ is someone who is likely to become dependent on the government for subsistence. “Public charge”, a long-standing provision in U.S. immigration law, is a test used by U.S. Citizenship and Immigration Services (USCIS) as one factor in determining who will be granted entry into the United States, who can renew certain temporary visas and who can obtain Lawful Permanent Residency (LPR) – also known as a green card. Public charge does not apply to some categories of immigrants, such as refugees, persons granted asylum and certified trafficking victims. In addition, there is no public charge test when individuals apply for naturalization.

Until now, financial factors taken into consideration only included the receipt of cash benefits or institutionalization for long-term care at government expense. Current guidelines do not allow federal officials to consider the use of non-cash benefits, such as nutrition assistance, housing subsidies, or healthcare programs such as Medicaid (Medi-Cal), in public charge assessments. However, the proposed rule expands the definition of ‘public benefits’ to include non-cash benefits, which could prevent an individual from adjusting their immigration status.

In addition, the proposed rule suggests factoring in the income of applicants for the first time. Earning less than 125 percent of the federal poverty level (\$25,975 for a family of three) would count against applicants, while earning more than 250 percent of the federal poverty level (\$51,950 for a family of three) would give them a boost.

The DHS’ revised policy “Inadmissibility on Public Charge Grounds” proposes expanding the types of benefits that could be used as grounds to reject a legally present immigrant’s application to keep his/her legal status to stay in the U.S. or to become a lawful permanent resident (obtain a green card). Programs that would be included are: Supplemental Nutrition Assistance Program (CalFresh in California); Non-Emergency Medicaid (Medi-Cal); Low Income subsidies under Medicare Part D; Section 8 vouchers and project-based subsidies, and public housing. Under current law, these are not considered to be public charge. Public education (including Head Start), national school lunch programs and Veterans benefits are among the excluded programs and would NOT be considered for public charge under the proposal. The proposed rule does not give a definitive answer on whether enrollment in the Children’s Health Insurance Program (CHIP) could jeopardize green card applications, instead soliciting specific feedback on that question.

While the intent of the public charge test has been in place for decades, the new proposed rule takes this principle to an extreme, and, if adopted, would ultimately punish immigrants for accessing non-cash benefits designed to help families succeed and thrive in our County

and become contributing members of our communities. The proposed rule changes may not only have a detrimental direct impact on the well-being of affected children and families in Contra Costa who lawfully receive public benefits, but may also indirectly impact health and economic factors for the community as a whole.

Nearly a quarter of Contra Costa County residents were born outside of the United States, a figure that represents the area's diverse population. Almost half of the children in Contra Costa County (age 0-17) live with at least one parent who was born outside the United States. The parents include naturalized citizens, green card holders and those who are aiming to become citizens. The children are largely U.S. citizens. The proposed changes to the public charge rules will directly impact a portion of this population.

Most immigrants who are not legally present are not eligible for public benefit programs. However, for people who are eligible, CalFresh, non-emergency Medi-Cal and housing assistance are frequently used by working families to help them stay healthy and remain productive. These supports for working families are especially important in our high-cost area, with many immigrants holding lower-paying jobs. Access to critical benefits is often necessary for a short time in order to help immigrants become assimilated and ultimately prosper. In some cases, the proposed public charge changes may lead families to feel they must choose between getting food, health care and services they need, and obtaining the citizenship that they are legally on track to achieve.

While the proposed public charge changes are primarily directed toward applications for Legal Permanent Residency for those already in the United States, there could be an overall chilling effect of causing uncertainty and confusion among immigrant families about using public programs for themselves and their children. Not only would disenrollment or foregone enrollment lead to worse health outcomes and greater poverty risk for the families foregoing benefits, but public health at-large could be affected by sicker individuals in the community, increased emergency room use and uncompensated care.

There would be economic impacts as well: decreased revenues to health care providers, pharmacies, grocery and other retailers and increased costs for organizations serving the immigrant community. The proposed rule would deprive immigrants and the County of the well-documented benefits of naturalization on earnings, employment, and homeownership. Furthermore, enacting the proposed regulations via a federal rule prevents a more appropriate study of this issue and its implications with proper Congressional involvement.

Importantly, the potential impacts of these proposed changes are inconsistent with the values of our County that have been recently reinforced in Board Resolutions No. 2017/343 (Support of the Deferred Action for Childhood Arrivals (DACA) Program) and No.2018/245 (Designating Contra Costa County as a "Welcoming County to Refugees and Immigrants"). These desired values include treating each person with respect and that Contra Costa County "aspires to be a model for inclusion and equity for all populations, including immigrants, refugees and other newcomers, through its commitments to support the ongoing inclusion and long-term economic and social integration of newcomers."

With the publication of the proposed changes to the public charge rules, there is a 60-day period, ending on December 10, 2018, during which the public can submit comments and questions. After that, DHS will review the comments and possibly make revisions before issuing final regulations. Dozens of the County's community partner organizations are preparing to submit comments in opposition to the proposed changes. Nothing will change until the final rule officially goes into effect. The process is expected to stretch into 2019.