



## Legislative Committee Meeting

Committee  
Supervisor Erin Hannigan (Chair)  
Supervisor John M. Vasquez

Staff  
Michelle Heppner

**November 5, 2018**

**1:30 p.m.**

Solano County Administration Center  
Sixth Floor Conference Center, Room 6003  
675 Texas Street  
Fairfield, CA 94533

### AGENDA

- i. **Introductions** (*Attendees*)
- ii. **Public Comment** (*Items not on the agenda*)
- iii. **Federal Legislative update** (*Paragon Government Relations*)
  - Update on Fiscal Year 2019 Appropriations
  - Farm Bill
  - Opioid Legislation
  - Trump Administration's Western Water Policy
  - Post-Election Outlook
- iv. **Update from Solano County Legislative Delegation** (*Representative and/or staff*)
- v. **State Legislative and State Budget Update** (*Karen Lange*)
- vi. **Proposed "Public Charge" Rule** (*H&SS*)
- vii. **Proposed 2019 Legislative Platform** (*Michelle Heppner*)
  - Proposed 2019 Federal Legislative Platform
  - Proposed 2019 State Legislative Platform
  - Legislative Proposals
- viii. **Future Scheduled Meetings:** Not yet scheduled
- ix. **Adjourn**

# NACo ANALYSIS OF DHS PROPOSED RULE ON “PUBLIC CHARGE”

## Understanding the proposed rule and how it could impact counties and our residents



### Background on the proposed public charge rule

On October 10, the U.S. Department of Homeland Security (DHS) released a long-anticipated [notice of proposed rulemaking \(NPRM\)](#) that would reshape how the federal government defines “public charge” – a term used by federal immigration authorities to determine whether an individual seeking immigration status is likely to become primarily dependent on the federal government for subsistence. The draft rule would widen the scope of programs and factors that federal immigration authorities may consider when determining if an individual qualifies as a “public charge.” This includes individuals already in the country seeking permanent legal residency or visa extensions, as well as those seeking entry to the country.

Previous administrations have also altered the definition of a “public charge,” with the most recent change coming under the Clinton Administration, which clarified the definition to only include cash-based income assistance programs. This definition is still in place and serves as the foundation for current “public charge” law.

As administrators of numerous federal benefits programs and as front-line providers of the public’s health and safety, counties should be aware of these proposed modifications to the “public charge” definition. The changes, as described in detail on page five, may include increased usage of the local safety-net services and new administrative demands and costs for complying with federal guidelines. **Counties are encouraged to share with NACo staff their local perspective on how this proposal could impact their jurisdiction and residents.**

### How is “public charge” defined under current law?

- Under current federal regulations established in 1996, the term “public charge” is defined as an individual who is “primarily dependent” on federal government assistance, meaning federal benefits supply more than half of his or her income.
- The term currently applies to reliance on *cash benefits* like the Temporary Assistance for Needy Families (TANF) program or Supplemental Security Income (SSI), as well as government funded long-term institutional care.

### How would the proposed rule change the definition and scope of “public charge”?

- The proposed rule would expand the definition of “public charge” to include certain health, nutrition and housing programs, in addition to the cash benefits mentioned above, which would remain subject to the definition. **Under the proposed definition, DHS’ cites that nearly 400,000 immigrants per year already in the U.S. would be subject to the new requirements and regulations.**

- Along with expanding the scope of the programs considered for a “public charge” designation, the proposal also reduces the dollar amount an individual may receive in public assistance before they are deemed a “public charge.” An individual who accepts the equivalent of at least 15 percent of federal poverty guidelines (equivalent to roughly \$1,800 a year, or \$150 a month) would be deemed a “public charge.”
- The proposed rule would also expand the scope of factors permissible to consider when determining whether an individual is “likely to become a public charge” in the near future. In addition to potential use of an array of federal benefits programs, the proposed rule would also outline over a dozen potential “negative factors” that immigration authorities may consider when making this determination (outlined below on page 3).

**What federal programs would be considered under the proposed rule?**

The table below provides a full list of the additional programs that would be included in the “public charge” designation (highlighted in red), programs considered for the “public charge” designation under current law and programs that DHS will not consider under the new proposed rule.

Programs included under current law	Programs included under proposed rule	Programs excluded from current law and proposed rule
<ul style="list-style-type: none"> <li>• Cash assistance programs               <ul style="list-style-type: none"> <li>○ Temporary Assistance for Needy Families (TANF)</li> <li>○ Supplemental Security Income (SSI)</li> </ul> </li> <li>• Government funded long-term institutional care</li> </ul>	<ul style="list-style-type: none"> <li>• Cash assistance programs               <ul style="list-style-type: none"> <li>○ Temporary Assistance for Needy Families (TANF)</li> <li>○ Supplemental Security Income (SSI)</li> </ul> </li> <li>• Government funded long-term institutional care</li> <li>• Supplemental Nutrition Assistance Program (SNAP, formerly known as food stamps)</li> <li>• Non-emergency Medicaid</li> <li>• Medicare Part D low-income subsidy</li> <li>• Housing assistance               <ul style="list-style-type: none"> <li>○ Public housing</li> <li>○ Section 8 housing voucher</li> </ul> </li> <li>• Rental assistance</li> </ul>	<ul style="list-style-type: none"> <li>• Disaster relief</li> <li>• Emergency medical assistance</li> <li>• Early education and child development services</li> <li>• Employment and training programs</li> </ul>

## What other criteria may be considered when determining whether an individual is a “public charge”?

In addition to broadening the scope of federal public assistance programs that may be taken into consideration if used by an individual, the proposed rule also sets forth new standards for immigration officials to consider when evaluating if someone is likely to become a “public charge” at any point in the future. **The table below outlines the indicators factors that could become a “negative factor” or “positive factor” that DHS could use to determine whether an individual meets the “public charge” determination under the proposed rule.**

Negative factors	Positive factor
<ul style="list-style-type: none"> <li>• Current use of public benefits</li> <li>• Amount of benefits used               <ul style="list-style-type: none"> <li>○ Use of monetized benefits over 12 months</li> <li>○ Use of nonmonetized benefits for more than 12 months in any previous 36-month period</li> <li>○ Use of monetized benefits plus use of nonmonetized benefits for more than nine months in any previous 36-month period</li> </ul> </li> <li>• Being younger than 18 or older than 61 years of age</li> <li>• Having a medical condition that may affect an individual’s ability to work, attend school or care for themselves               <ul style="list-style-type: none"> <li>○ Not having sufficient resources to cover the medical condition</li> </ul> </li> <li>• Not having private health insurance</li> <li>• Having several children or other dependent family members</li> <li>• If an applicant has limited English proficiency</li> <li>• Having bad credit or a low credit score</li> <li>• Having no employment history</li> </ul>	<ul style="list-style-type: none"> <li>• Household income is above 250 percent of the federal poverty guidelines</li> </ul>

## Who would be impacted by the proposed rule?

- The draft rule would be applied to any individual seeking to come to the U.S. through various visas, with limited exceptions for certain immigrant populations, such as refugees. The proposal would also impact individuals already in the country who are seeking to become permanent legal residents or to extend their stay in the country by renewing their immigration status.
- In determining whether an individual is a public charge, federal immigration authorities would only consider benefits an individual is receiving for **him/herself**, rather than all benefits received by members of his/her household. An individual **who is receiving assistance for his/her U.S. citizen child but not for him/herself, for example, is not using public benefits** under the proposed new definition and is therefore is not an inadmissible “public charge.”
- The population that is expected to be most impacted by the proposal are individuals outside the U.S. trying to emigrate to the country.

The table below highlights populations that may be impacted due to the proposed regulation’s new definition, income requirements and other standards.

Who are the populations that would be impacted?	Who are the populations that will not be impacted?
<ul style="list-style-type: none"> <li>• Individuals <b>who have already legally immigrated to the U.S.</b> and are:               <ul style="list-style-type: none"> <li>○ Applying to become lawful permanent residents or green card holders</li> <li>○ Applying to extend or change the category of a nonimmigrant visa, or renewing their status</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Individual who have already become U.S. citizens</li> <li>• Undocumented individuals (because they are largely ineligible for public assistance)               <ul style="list-style-type: none"> <li>○ <i>Note: If an undocumented immigrant applies to change their immigration status, they may be impacted</i></li> </ul> </li> </ul>
<ul style="list-style-type: none"> <li>• Individuals <b>seeking to come to the U.S.</b> who are:               <ul style="list-style-type: none"> <li>○ Applying for various visas</li> <li>○ Green card holders who have been outside the U.S. for more than six months</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• U.S. citizen children that receive public assistance benefits</li> <li>• Refugees and asylees</li> <li>• Survivors of domestic violence</li> <li>• U.S. citizen children</li> </ul>

## How counties may be impacted by the proposed rule?

- **Increased use of the local safety-net:** If the contemplated changes to the “public charge” definition result in fewer individuals accessing federal benefits such as SNAP, Section 8 housing vouchers and healthcare services, counties may face increased demands for assistance from these individuals and their families.
- **Administrative burden on county agencies:** Many counties administer federal programs, and this proposal could impose burdensome new tracking and reporting requirements for local offices that administer these programs.
- **Risk of public disease outbreaks:** The proposed rule may discourage immigrants and their families from seeking federal health benefits, such as Medicaid or the Children’s Health Insurance Program (CHIP). If families do not seek health benefits, they may be more likely to contract and spread disease in a manner that increases the risk of public disease outbreaks, which are harmful to all members of our communities and extremely costly to county budgets.

## What’s next

Now that the proposed rule has been published in the *Federal Register*, the public can submit comments for a 60-day period, including weighing in on whether certain programs should be included under the final rule. Among the programs under consideration to be included in the department’s final rule, is the Children’s Health Insurance Program (CHIP), which provides health insurance to children and families with incomes that are modest but too high to qualify for Medicaid. Together, CHIP and Medicaid insure over 30 million children and covers a range of health services, such as prenatal doctor visits for pregnant women and dental checkups for young children.

After DHS considers these comments, the departments will issue a final rule.

## Contact

For questions on the content of this analysis, please contact Eryn Hurley, Associate Legislative Director for Human Services and Education at [ehurley@naco.org](mailto:ehurley@naco.org) or 202.942.4204.



## Model Messages Regarding Proposed Public Charge Rule Changes

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### **Background:**

Over last few years, BARHII Members asked for assistance on communications and messaging. Through a partnership with Berkley Media Studies Group (BMSG) we provided several trainings on communications for health equity work to our Members. As part of ongoing support, we were asked to share welcoming messages and communication for immigrant clients from amongst our group. Most recently, BMSG helped us create model messages to combat proposed public charge rule changes.

All the messages proposed in this document follow BMSG's 3 key components of message strategy: Problem Statement (What's wrong?), Policy Objective (What should be done?), Values Dimension (Why does it matter?).

### **Where did these model messages come from?**

On August 17, 2018 at the BARHII General Meeting, local health departments shared what they have done or plan to do in response to anticipated changes to the public charge test. With 9 out of 11 counties represented, the discussion included emphasis on raising the level of urgency, while at the same time, avoiding raising fear among those who use health department services.

It became clear that to protect the health and safety of our immigrant communities, we needed to develop multiple public health responses that our departments could quickly adopt, adapt, and use once public charge rule changes were published. Listed below are template communication messages for LHDs to consider. These incorporate communication research and best practices as well as messaging from immigrant rights coalitions, such as Protecting Immigrant Families.

### **What is public charge?**

"Public Charge" is a test used by US Citizenship and Immigration Services (USCIS) to decide who they will let into the U.S., who can renew certain temporary visas, and who can get Lawful Permanent Residency (LPR)—also known as green card. Public charge is a test for the use of public programs and benefits. There is no public charge test when you apply for naturalization.

The proposed changes of the public charge test will intensify a climate that is already harming the health of immigrants, putting millions at risk. Public health departments are combating this proposed change because it will undermine the health, safety, trust, and wellness of our communities. Fear of accessing public health services will create a sicker, hungrier, and poorer nation.

PLEASE NOTE: As of 9/23, the Notice of Proposed Rulemaking (NPRM) has not been published in the Federal Register for comment. This statement is in response to the press release and rule text issued by the Department of Homeland Security on the evening of Saturday, 9/22. The press release

is available at: <https://www.dhs.gov/news/2018/09/22/dhs-announces-new-proposed-immigration-rule-enforce-long-standing-law-promotes-self>

## Model Messages for Three Audiences

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### **Message to LHD Staff**

We value everyone in our County. This is a core principle in ensuring everyone access to health services. When people fear going to the doctor and enrolling public benefits, this becomes critically important for their own health and the wellbeing of our community. We are asking all staff within our County to communicate to all clients, including our immigrant clients, that they are vital, we care about them, and they are still eligible for important public benefits that support their health and the overall health of our county and state.

We encourage all LHD staff to review guidance given to staff on how to communicate welcoming messages: <http://barhii.org/immigration/>

### **Message to Community Members**

In our County, we know that collaboration among all our community members is necessary to achieve prosperity and solidarity. When people don't feel safe to go to the doctor or get public benefits, we aren't able to thrive individually or collectively. We want everyone who lives here to maintain their health and take care of each other by continuing to seek the care and support their needs. Our County Health Department will always be here for our community and remains committed to providing excellent services with respect and dignity for all.

### **Message to Board of Supervisors**

#### *Option 1: Everyone Thrives*

In our County, we want everyone to thrive. The proposed Public Charge change has already undermined community cohesion by creating fear and toxic stress. We can be at the forefront of resilience and safety. We, as the County, should weigh in how this impacts all of us. This proposed change would make using health, anti-hunger, anti-poverty, or affordable housing programs a possible disqualifier for immigration. Even a family member's use of those programs might be used against immigrants, putting millions of families at risk. The result: a sicker, hungrier, poorer nation. That's why we want you, Board of Supervisors, to participate in public comment and advocate at the California State Association of Counties.

#### *Option 2: Historical Perspective*

In our County, we want everyone to thrive and be healthy. And we know right now that the federal government is looking at changing regulations around the Public Charge test. These changes would make it more difficult for immigrants to have roadmaps to citizenship and could be detrimental to the health of our whole community.

The Public Charge Test was first developed in 1882, the same year the racist Chinese Exclusion Act was created and later used to prevent Jewish refugees fleeing Nazi Germany from entering the U.S. Historically, it also has been used to prevent people with disabilities, LGBTQ immigrants, and unmarried women from entering the U.S. Proposed changes to the Public Charge test are to count enrollment in food stamps/SNAP benefits, Medi-Cal, and social services that help create thriving



and healthy communities, against our neighbors, friends, family, and co-workers citizenship applications. If the proposed changes to the Public Charge test pass, many immigrants and their families will disenroll from critical social services and benefits that are vital to ensuring our communities are safe, healthy, and productive. For example, people who are afraid to use needed services may forego preventive health services, and only seek care in the emergency room when they are very sick, which diminishes quality of life and is very expensive for the County. As enrollment in critical programs erodes along with the revenue that supports these programs, it could create a ripple effect, creating layoffs and job instability for many of our residents.

*Option 3: All in this Together*

Whether we're tenth generation American or a newcomer, Black, White, or Brown, most of us try to treat people how we'd want to be treated. New immigrants work hard to make life better for themselves and who come here to bring new ideas and new energy to our nation. When we have each other's backs – by ensuring those of us who've fallen on hard times can get support to see to better days – we make things better for all of us.

Our County and our staff have demonstrated that we are a collaborative and inclusive county dedicated to ensuring all our residents have the services they need to be healthy, safe, and live with dignity. We have XX immigrants in our County. They are our neighbors, teachers, friends, coworkers, and family. The negative impacts of this proposed expanded rule on our County would be extensive and harm all of us. Our County should have a clear statement of opposition to the expansion of the Public Charge test, and a coordinated outreach strategy to ensure our clients and residents understand the issue and can continue to receive the services and benefits they need to live healthy lives.



State of California



EDMUND G. BROWN JR.



WILL LIGHTBOURNE  
DIRECTOR

October 4, 2018

TO: ALL COUNTY WELFARE DIRECTORS

FROM: CALIFORNIA DEPARTMENT OF SOCIAL SERVICES  
CALIFORNIA DEPARTMENT OF HEALTH CARE SERVICES

SUBJECT: PROPOSED CHANGES TO THE PUBLIC CHARGE DETERMINATION

The purpose of this letter is to inform County Welfare Departments (CWDs) that recently the Federal Government released proposed regulations that could change how immigration officials determine whether applicants for lawful permanent residence, and those seeking to extend or change their immigration status, are or will become a public charge.

The Proposed Rule has not yet been published in the Federal Register for comment. This comment period will begin once the Proposed Rule is formally published in the Federal Register. This Proposed Rule could make changes to immigration determinations, but would not impact eligibility for public benefits. Nothing will change until the final rule officially goes into effect.

A “public charge” is a term used in immigration law to describe someone who is or may become dependent on government assistance. Under existing law, a person who primarily is dependent on the government for subsistence may be considered a public charge and can be denied admission to the U.S., barred from becoming a lawful permanent resident, or have their request for an extension of their visa denied on that basis. Currently, immigration officials mainly consider the use of two types of benefits when making their public charge determination: cash assistance for income maintenance and institutionalization for long-term care at government expense.

The Federal Government is proposing to change the meaning and application of the “public charge” provisions of immigration law. Any use of certain public benefits would be a significant negative factor in a public charge determination. The proposed rule also broadens the type of public benefits considered to include non-cash benefits, such as SNAP (CalFresh in California), Medicaid (Medi-Cal in California), and Section 8 housing vouchers.

The proposed changes cannot impact certain groups of immigrants, including refugees, asylees, special immigrant juvenile visa holders, victims of trafficking, victims of crime, and other special categories of immigrants, because other provisions of federal law exempt these groups from public charge determinations. Lawful permanent residents applying for citizenship are not subject to the public charge rule.

CWD staff, including eligibility workers, should not offer advice to individual applicants or continuing clients who inquire about the immigration consequences of participation in public benefits programs. Immigration advice may only be provided by authorized experts. There are many factors which determine whether a person may be considered a public charge. **Everyone's case is unique and requires review by a qualified legal professional.** State-funded organizations that can provide legal services to immigrants are listed on a CDSS website ([www.cdss.ca.gov/ImmigrationContractors](http://www.cdss.ca.gov/ImmigrationContractors)).

The Departments will provide updates when new information is available.

# PUBLIC CHARGE: A NEW THREAT TO IMMIGRANT FAMILIES

## WHAT IS PUBLIC CHARGE?

Part of federal immigration law for over a hundred years, the “public charge” test is designed to identify people who may depend on the government as their main source of support. If the government determines that a person is likely to become a “public charge,” it can deny a person admission to the U.S. or lawful permanent residence (or “green card” status).

On October 10, the Department of Homeland Security (DHS) proposed to change this long-standing policy by excluding anyone who is likely to use certain health care, nutrition or housing programs in the future. The proposed test adds specific standards for income, health, age and even English proficiency, and expands the forms of public assistance that are counted in a “public charge” determination.

## PUBLIC CHARGE RULE WOULD HARM HEALTH, WELLBEING OF MILLIONS

If finalized, the proposal would fundamentally change who we are as a nation—transforming us from a country that welcomes people who plan to work hard and achieve a better life, to one rigged in favor of the wealthy. It would also put the health and wellbeing of millions of people at great risk and violate our core American values. How you live your life and contribute to your community should define you in this country, not how you look or how much money you have.

The proposal would make—and has already made—immigrant families afraid to seek programs that help them stay strong and productive and raise children who thrive. With about one in four children having at least one immigrant parent, this issue touches millions and is critical now and for our nation’s future.

## HOW THE PUBLIC CHARGE RULE IS APPLIED TODAY

Under the current policy, the only benefits considered in determining who is likely to become a “public charge” are:

- Cash assistance, such as **Supplemental Security Income (SSI)**, **Temporary Assistance for Needy Families (TANF)**, and comparable state or local programs.
- Government-funded **long-term institutional care**.

## HOW PUBLIC CHARGE COULD CHANGE

If the rule is finalized in its proposed form, this would mark a significant and harmful departure from the current policy. For over a hundred years, the government has recognized that work supports like health care and nutrition programs help families to thrive and remain productive. And decades ago the government clarified that immigrant families can participate in essential health and nutrition programs without fear that doing so would harm their immigration case. If this rule is finalized, we can no longer offer that assurance.

The new ‘public charge’ proposal targets key programs that help participants meet basic needs, such as:

- Non-emergency **Medicaid** (with limited exceptions for certain disability services related to education)
- **Supplemental Nutrition Assistance Program (SNAP)**.
- **Low Income Subsidy** for prescription drug costs under **Medicare Part D**.
- **Public Housing, Section 8 housing vouchers, and Project-Based Section 8**.



## IF YOU WORK WITH IMMIGRANT FAMILIES, HERE'S WHAT YOU NEED TO KNOW

### Some immigrant groups are not subject to “public charge.”

Some immigrants—such as refugees, asylees, survivors of domestic violence, and other protected groups—are not subject to “public charge” determinations and would not be affected by this proposed rule if they are seeking status through those pathways. The regulation also proposes to exclude benefits received by active duty servicemembers, their spouses and children. Public charge is also not a consideration when lawful permanent residents (green card holders) apply to become U.S. citizens.

### Under the proposed rule, receipt of benefits by the individual—not family members—is considered.

Moreover, only the benefits listed in the proposed rule may be considered. Pell Grants, WIC, child care or other benefits not listed would not be considered. And the use of Medicaid or SNAP by eligible family members who are not applying for status themselves would not be considered under this proposal. We still expect that entire households will be harmed by the proposed rule, as there is no way to target individual immigrants without hurting children, families, and communities.

### This is only a proposal; the rules governing public charge in the U.S. have not yet changed.

Federal law requires DHS to obtain comments from the public and to review and respond to the comments before it publishes a final rule. The proposed rule makes it clear that these changes will apply only to benefits received after the rule is final. Even if the rules change, applicants for admission or permanent residence can still make their best case to show why they are not likely to become a “public charge” in the future. Using benefits now can help you become healthier, stronger and more employable in the future.

### Each situation is different.

People with questions should consult an immigration attorney or DoJ-accredited representative about their individual case. This online directory can help you search for local nonprofits that provide legal help and advice: [ImmigrationLawHelp.org](https://www.immigrationlawhelp.org).

# FIGHT BACK!

The Center for Law and Social Policy (CLASP), National Immigration Law Center (NILC), and groups all over the country are working together to fight back against the public charge rule change. The public has until **December 10** to submit comments on this regulation.

Our opposition needs to be strong because the stakes are high. If we want our communities to thrive, everyone in those communities must be able to stay together and get the care, services, and support they need to remain healthy and productive.

To submit a comment today, please visit [ProtectingImmigrantFamilies.org](https://www.ProtectingImmigrantFamilies.org). Let the government know that this rule would harm you, your family, community and the country. Organize your networks, your neighbors, and your family to weigh in and do the same. Now is the time to make your voice heard! If you do not want to include any personal information, a friend or representative can submit a comment for you.



# WHO Would Be Harmed by Trump's "Public Charge" Proposal?



The Trump Administration is proposing radical changes to the "public charge" rule that would make it more difficult for immigrants to obtain a green card if they use any of a wide range of public benefits. If finalized, the proposed "public charge" rule would result in declines of immigrant families' access to the basics we all need to survive. The proposal would make—and has already made—immigrant families afraid to seek programs that help them stay strong and productive and raise children who thrive.

The rule proposed by the Trump Administration would impact **26 million people**. Over **9 million are children**, and **85 percent are U.S. citizens**.<sup>1</sup> It would drain millions of dollars from state and local economies, increase unemployment, make communities sicker, deepen poverty and hunger, and increase homelessness.

## TOTAL IMPACT

### 26 MILLION people nationwide.

- ▶ If the **CURRENT** public charge definition were applied to U.S. citizens today, **5% of U.S. citizens** might fail the test.<sup>2</sup>
- ▶ If the **PROPOSED** public charge definition were applied to U.S. citizens today, **1 in 3 U.S. citizens** would fail the test.<sup>3</sup>

Anyone in a family earning **less than \$62,750** a year for a family of four could fail the test.<sup>4</sup>

### HARMS CHILDREN



**More than 1 in 4 children**, mostly U.S. citizens, live with an immigrant parent.<sup>5</sup>



**9 in 10 children** with immigrant parents are U.S. citizens<sup>6</sup>

### DISPROPORTIONATELY HARMS COMMUNITIES OF COLOR



**18.3 million [33.4% of all]** Latinos

**3.2 million [17.4% of all]** Asians

**1.8 million [4% of all]** Blacks or African-Americans

**2.5 million [1% of all]** Whites<sup>7</sup>

**SOURCES:** **1.** 2012-2016 5-Year American Community Survey Public Use Microdata Sample (ACS/PUMS); 2012-2016 5-Year American Community Survey (ACS) estimates accessed via American FactFinder. Custom Tabulations by Manatt Health, 5/16/2018. Calculation of Potentially Chilled Population, based on families with at least one non-citizen and earned income under 250% of the federal poverty line. **2.** Jeanne Batalova, Michael Fix, and Mark Greenberg, "Chilling Effects: The Expected Public Charge Rule and Its Impact on Legal Immigrant Families' Public Benefits Use" (Washington: Migration Policy Institute, 2018), available at <https://www.migrationpolicy.org/research/chilling-effects-expected-public-charge-rule-impact-legal-immigrant-families>. **3.** <https://www.americanprogress.org/issues/poverty/reports/2018/07/19/453174/trumps-immigration-plan-imposes-radical-new-income-health-tests/> **4.** The poverty guidelines updated periodically in the Federal Register by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. 9902(2). "U.S. Federal Poverty Guidelines Used to Determine Financial Eligibility for Certain Federal Programs" <https://aspe.hhs.gov/poverty-guidelines>. **5.** Samantha Artiga and Anthony Damico, "Nearly 20 Million Children Live in Immigrant Families that Could Be Affected by Evolving Immigration Policies." Kaiser Family Foundation, April 18, 2018. <https://www.kff.org/disparities-policy/issue-brief/nearly-20-million-children-live-in-immigrant-families-that-could-be-affected-by-evolving-immigration-policies/> **6.** Samantha Artiga and Anthony Damico, "Nearly 20 Million Children Live in Immigrant Families that Could Be Affected by Evolving Immigration Policies." Kaiser Family Foundation. April 18, 2018. **7.** 2012-2016 5-Year American Community Survey Public Use Microdata Sample (ACS/PUMS); 2012-2016 5-Year American Community Survey (ACS) estimates accessed via American FactFinder. Custom Tabulations by Manatt Health, 5/16/2018.

## ORGANIZATIONAL SIGN-ON STATEMENT IN OPPOSITION TO THE PROPOSED REGULATION

The Trump Administration formally proposed sweeping regulations this morning that endanger the lives of immigrant families, including families with children born in the United States. The “public charge” regulation puts money ahead of family, and threatens to worsen hunger, poverty, and unmet health and housing needs. This is not the kind of nation we want to be.

This proposed regulation would mark a fundamental change from our nation's historic commitment to welcoming immigrants. It would radically reshape our legal immigration system, putting the wealthy at the front of the line, ahead of hardworking families who have waited years to reunite. No longer would the U.S. be a beacon for the world's dreamers and strivers. Instead, America's doors would be open only to the highest bidder.

The proposal also deepens the nation's racial divide. Immigrants who come to the United States through a family-based petition are overwhelmingly immigrants of color. The Administration's choice to target family-based immigrants will worsen disparities in health, hunger, and every other social malady.

Sweeping in its effect, the rule discounts the contribution of working families. It would chill access to critical programs that help tax-paying immigrants and their families access health care, food, and other essential needs. These programs have helped to improve participants' health, well-being, school success, and economic security. The proposal would make—and has already made—immigrant families afraid to seek programs that support basic needs. With about one in four children having at least one immigrant parent, this issue touches millions and is critical now and for our nation's future.

We, the undersigned, strongly oppose this proposed rule, which threatens the health and wellbeing of all of us, including immigrants. We urge the public to speak out against this dangerous proposal, by submitting comments opposing it online at [www.protectingimmigrantfamilies.org](http://www.protectingimmigrantfamilies.org). We also urge the Administration to withdraw the proposal and work with us to build policies that support immigrants as healthy, productive and successful members of America's communities and families.

## Research Estimating Impact of Proposed Public Charge Rule: What Study to Use?

### Description

On October 10, the Department of Homeland Security (DHS) posted a proposed public charge regulation in the federal register, asking the public to submit comments by December 10, 2018, before it becomes final.

The proposal weighs a range of factors in deciding whether a person is likely to use certain public benefits in the future and would make it much more difficult for low and moderate-income immigrants to get a green card, extend or change their temporary status in the US. The proposed test would weigh each of the following *negatively* in public charge decisions: earning less than 125% of the federal poverty level (FPL), being a child or a senior, having certain health conditions, limited English ability, less than a high school education, a poor credit history, and other factors. The only factor weighing as “heavily positive” is a household income of 250 percent of the Federal Poverty Level.

This document is a running summary of demographic and economic research estimating the impact of the proposed public charge rule. The document includes information on each research product’s key findings and data sources and suggests best uses and describes the limitations of each research product. The estimates focus on two different universes: *directly impacted individuals* based on current estimates of benefit utilization and disenrollment scenarios, and *chilled populations*, which are likely to be chilled from accessing benefits, even if they are not current benefits recipients or directly impacted by the proposed rule. Based on the experience post-1996, following the last major transformation of federal laws governing immigrants and public benefits, we have data that indicates that large populations will be chilled from using benefits, even if the use of benefits will have no impact on their immigration status.

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## CALIFORNIA HEALTH CARE FOUNDATION

<b>Title</b>	California Health Care Foundation: Changing Public Charge Immigration Rules: The Potential Impact on Children Who Need Care
<b>Date Published</b>	October 23, 2018
<b>Measurement</b>	Impact of proposed rule change on Medicaid and CHIP program enrollment among a particularly vulnerable group: low- and moderate-income children “in need of medical attention,” defined as children with a current or recent medical diagnosis, disability, and/or need for specific therapy.
<b>Key Findings</b>	<p>An estimated 4.8 million children in need of medical attention live in households with at least one noncitizen adult and are insured by Medicaid or CHIP.</p> <p>Approximately 700,000 to 1.7 million of these children are likely to be disenrolled from Medicaid or CHIP if the rule is changed. This includes (among others) approximately: (a) 143,000 to 333,000 children with at least one potentially life-threatening condition, including asthma, influenza, diabetes, epilepsy, or cancer; (b) 122,000 to 285,000 children on prescribed medications; (c) 102,000 to 238,000 newborns; and (d) 53,000 to 124,000 children with musculoskeletal and rheumatologic conditions like fractures and joint disorders.</p>
<b>Best Use of Resource</b>	<p>The best use of this resource is for those interested in health-specific information, including the number of children who are at risk of disenrolling and the type of medical attention needed by these children. Further, this resource provides evidence of the potential impact of the rule on children with special health care needs and for the argument that Medicaid is a lifeline for children and families.</p> <p>The resource is not intended for those interested in sub-national estimates or estimates by race/ethnicity. The resource also focuses on Medicaid/CHIP and is not intended for those looking for information on SNAP, housing, or other named benefits.</p>
<b>Data available by subnational level?</b>	No.
<b>Data available for children?</b>	Yes.
<b>Data available by race/ethnicity?</b>	No.
<b>Data Source</b>	2011 Medical Expenditure Panel Survey and National Health Interview Survey
<b>Hyperlink</b>	<a href="https://www.chcf.org/publication/changing-public-charge-immigration-rules/">https://www.chcf.org/publication/changing-public-charge-immigration-rules/</a>

**FISCAL POLICY INSTITUTE**

<b>Title</b>	Fiscal Policy Institute: “Only Wealthy Immigrants Need Apply” How a Trump Rule’s Chilling Effect Will Harm the U.S.
<b>Date Published</b>	October 10, 2018
<b>Measurement</b>	<p>People who may experience a chilling effect: The number of people who are likely to be nervous or confused about whether they should apply for benefits if they qualify and may either refrain from accessing benefits or disenroll from benefits. For this paper, it is defined as everyone who lives in a family with at least one non-citizen immigrant, and where someone in that family has received one of the public benefits named in the public charge rule.</p> <p>Disenrollment from programs: Among the people who experience a chilling effect, the portion that would go so far as to disenroll from programs in which they are eligible (i.e., scenarios of 15, 25, and 35 percent disenrollment from Medicaid and SNAP).</p> <p>Economic loss: Estimated loss of health care and food supports, economic ripple effects to businesses and workers, and jobs lost, as a result of disenrollment from assistance programs.</p>
<b>Key Findings</b>	Resource estimates that 24 million people, including 9 million children, who would be affected by the chilling effect of the proposed rule. At the higher disenrollment scenario (35%), the resource estimates \$17.5 billion in loss of health care and food supports, \$33.8 billion in potential economic ripple effects of this lost spending, and 230,000 in potential jobs lost because of this reduction in federal spending.
<b>Best Use of Resource</b>	<p>The best use of this resource is for those interested in national data on the chilling effect based on use of public benefits and the associated economic loss of the proposed rule, including reduction in health and food benefits, potential economic ripple effect, and jobs lost.</p> <p>The resource is not intended for those interested in sub-national estimates (aside from New York); however, you may contact FPI to request state-level data for other states. Further, the resource does not provide information on the race/ethnicity or other characteristics of the estimated chilled population.</p>
<b>Data available by subnational level?</b>	Yes, only available for New York state. Other state estimates are pending. No sub-state geographies available.
<b>Data for children?</b>	Yes, only for people who may experience a chilling effect.
<b>Data by race?</b>	No.
<b>Data Source</b>	Current Population Survey (2015 national, 2013-2015 state-level); disenrollment estimates developed by Kaiser Family Foundation; economic ripple effects developed by Economic Policy Institute (see pages 7-8)
<b>Hyperlink</b>	<a href="http://fiscalpolicy.org/public-charge">http://fiscalpolicy.org/public-charge</a>

## MANATT HEALTH

<b>Title</b>	Manatt Health: Public Charge Proposed Rule: Potentially Chilled Population Data Dashboard
<b>Date Published</b>	October 11, 2018
<b>Measurement</b>	Manatt estimates the universe of people who may experience a chilling effect, which either discourages them from accessing resources or leading them to disenroll from benefits, regardless of whether or not they are directly impacted by the rule change. This impact is estimated by calculating the number of individuals and family members with at least one non-citizen in the household who do not meet the criteria for the one “heavily weighted factor” in the totality of circumstances test, which is having less than 250% Federal Poverty Level (FPL) in earned income. This is calculated by family income, as opposed to household income, as the former is more conservative. The proposed public charge rule stipulates that, relative to immigrants with incomes above 250% FPL, immigrants with income below 250% FPL are more likely to be deemed a public charge, and those with income below 125% FPL are significantly more likely to be deemed a public charge.
<b>Key Findings</b>	Manatt estimates that 26 million people, including 9.2 million children, would be potentially chilled by the rule change. In addition, this resource demonstrates that the proposed rule change will have a disproportionate impact on communities of color, impacting: 18.3 million Latinos (33.4% of all Latinos), 3.2 million Asian residents (17.4% of all Asian residents), 1.8 million Black residents (4% of all Black residents, and 2.5 million white residents (1% of all white residents).
<b>Best Use of Resource</b>	<p>The best use of this resource is for those interested in subnational estimates of the potentially chilled population or estimates of impact by age and race/ethnicity. The resource allows for granular geographic estimates of the potentially chilled population, including by state, metro area, and county.</p> <p>As a broad estimate of the potentially chilled population, the resource does not account for specific factors in the totality of circumstance test. Therefore, the resource is not intended for those interested in factoring the use of specific public benefits, projecting disenrollment from public benefits, or measuring future immigration flows.</p>
<b>Data available by subnational level?</b>	Yes, data by age and race available at state-level. Data by income available at metro area and county level.
<b>Data available for children?</b>	Yes, at both the national and state-level.
<b>Data available by race/ethnicity?</b>	Yes, at both the national and state level.
<b>Data Source</b>	2012-2016 5-Year American Community Survey Public Use Microdata Sample
<b>Hyperlink</b>	<a href="https://www.manatt.com/insights/articles/2018/public-charge-rule-potentially-chilled-population">https://www.manatt.com/insights/articles/2018/public-charge-rule-potentially-chilled-population</a>

### KAISER FAMILY FOUNDATION

<b>Title</b>	Kaiser Family Foundation: Estimated Impacts of the Proposed Public Charge Rule on Immigrants and Medicaid
<b>Date Published</b>	October 11, 2018
<b>Measurement</b>	<p>Share of noncitizens who originally entered the U.S. without Lawful Permanent Resident (LPR) status who have characteristics that DHS could potentially weigh negatively in a public charge determination.</p> <p>Number of individuals who would disenroll from Medicaid under different scenarios.</p>
<b>Key Findings</b>	<p>Nearly all (94%) noncitizens who originally entered the U.S. without LPR status have at least one characteristic that DSH could potentially weigh negatively in a public charge determination.</p> <p>If the proposed rule leads to Medicaid disenrollment rates ranging from 15% to 35% among Medicaid and CHIP enrollees living in a household with a noncitizen, between 2.1 to 4.9 million Medicaid/CHIP enrollees would disenroll.</p>
<b>Best Use of Resource</b>	<p>The best use of this resource is for those interested in characteristics that DHS could consider in public charge determination, including age, family size, health status, family income, health coverage, public benefits, employment, education, and English proficiency, by citizenship status. See Appendix B for a list of characteristics that DHS could potentially weigh negatively or positively in a public charge determination. Further, the resource is intended for those looking for Medicaid/CHIP-specific information, including impact on disenrollment. Also, the resource provides a summary of DHS’s Medicaid estimates and the assumptions associated with their estimated number of Medicaid disenrollees and reduction in Medicaid expenditures.</p> <p>The resource is not intended for those interested in sub-national estimates. The resource also focuses on Medicaid/CHIP and is not intended for those looking for information on SNAP, housing, or other named benefits.</p>
<b>Data available by subnational level?</b>	No.
<b>Data available for children?</b>	Yes, as a share of noncitizens who entered the U.S. without LPR status.
<b>Data available by race/ethnicity?</b>	Yes, as a share of noncitizens who entered the U.S. without LPR status.
<b>Data Source</b>	2014 Survey of Income and Program Participation (SIPP)
<b>Hyperlink</b>	<a href="https://www.kff.org/disparities-policy/issue-brief/estimated-impacts-of-the-proposed-public-charge-rule-on-immigrants-and-medicaid/">https://www.kff.org/disparities-policy/issue-brief/estimated-impacts-of-the-proposed-public-charge-rule-on-immigrants-and-medicaid/</a>

## Questions

If you have any questions about the resources, please contact Protecting Immigrant Families (PIF) Research Work Group Co-Leads Jackie Vimo ([vimo@nilc.org](mailto:vimo@nilc.org)) and Renato Rocha ([rrocha@clasp.org](mailto:rrocha@clasp.org)). Also, please visit the [PIF website](https://protectingimmigrantfamilies.org) for quick access to research, campaign resources, fact sheets, partner resources, community education resources, state-specific materials, and campaign events at <https://protectingimmigrantfamilies.org/resources/>.

# The Reference to Public Benefits in USCIS's Policy Memo on Notices to Appear

AUGUST 2018

From its earliest days, the Trump administration has unleashed wave after wave of attacks on immigrant families and communities. One of the first was an [executive order](#), issued just five days after the president's inauguration (on Jan. 25, 2017),<sup>1</sup> that calls for an aggressive campaign of immigration enforcement in the U.S. interior. In part, this interior enforcement order established a new list of enforcement priorities so broad that virtually all undocumented immigrants are included within their scope. One vague provision makes undocumented immigrants a priority for enforcement if they have "[abused any program related to receipt of public benefits](#)."<sup>2</sup>

## Notice to Appear (NTA) policy

On June 28, 2018, U.S. Citizenship and Immigration Services (USCIS) issued a [policy memorandum](#) that instructs USCIS employees how to effectuate the Jan. 2017 executive order's enforcement priorities in a way consistent with the U.S. Department of Homeland Security's (DHS's) overall removal priorities.<sup>3</sup> (NOTE: On July 30, 2018, USCIS announced that it would delay implementation of this memorandum until the agency develops operational guidance on NTAs and referrals to U.S. Immigration and Customs Enforcement (ICE).)

**NTA initiates removal proceedings.** Within DHS, removal proceedings are initiated primarily by ICE, but USCIS and border authorities also have some enforcement duties.<sup>4</sup> The memorandum deals specifically with the circumstances under which USCIS issues a Notice to Appear or refers cases to ICE. An NTA is a charging document to initiate removal (deportation) proceedings. Once an NTA is issued, filed with an immigration court,<sup>5</sup> and served on a non-U.S. citizen, removal proceedings against the noncitizen may proceed. In immigration court, the noncitizen may seek relief from removal (i.e., one of various types of waiver or lawful immigration status), including adjustment of status to lawful permanent residence, which USCIS may have denied the person at some point prior to the proceedings.

**Memo further limits exercise of prosecutorial discretion.** The policy set forth in the memorandum requires USCIS to issue an NTA to nearly all persons who are or become "not lawfully present" when their application, petition, or request for an immigration benefit submitted to USCIS is denied. Previously, in most cases individual USCIS agents could consider whether the specific facts

<sup>1</sup> <https://www.whitehouse.gov/presidential-actions/executive-order-enhancing-public-safety-interior-united-states/>.

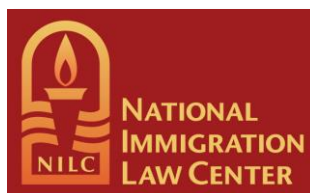
<sup>2</sup> See "Unpacking the References to Public Benefits and the Privacy Act in Trump's Executive Order on Interior Enforcement," NILC's *The Torch*, March 2, 2017, [www.nilc.org/news/the-torch/3-2-17](http://www.nilc.org/news/the-torch/3-2-17).

<sup>3</sup> U.S. Citizenship and Immigration Services Policy Memorandum, PM-602-0050.1, Subject: Updated Guidance for the Referral of Cases and Issuance of Notices to Appear (NTAs) in Cases Involving Inadmissible and Deportable Aliens, June 28, 2018, <https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/2018/2018-06-28-PM-602-0050.1-Guidance-for-Referral-of-Cases-and-Issuance-of-NTA.pdf>.

<sup>4</sup> USCIS and ICE are agencies within DHS, as is U.S. Customs and Border Protection.

<sup>5</sup> The immigration court system is administered by the U.S. Department of Justice.

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of a case warranted the issuance of an NTA. The memorandum limits the exercise of such prosecutorial discretion to cases approved by a review panel that includes a supervisory officer and a USCIS Office of Chief Counsel attorney. Different NTA issuance rules apply to cases in which the USCIS benefit sought is [Deferred Action for Childhood Arrivals \(DACA\)](#).<sup>6</sup>

### NTA when the record reflects “fraud, misrepresentation, or evidence of abuse of public benefit programs”

A section of the memorandum devoted to “Fraud, Misrepresentation, and Abuse of Public Benefits Cases” instructs USCIS agents to issue an NTA upon denial of an individual’s petition or application when the person is removable and the record reflects “fraud, misrepresentation, or evidence of abuse of public benefit programs.” This includes fraud or willful misrepresentation “in connection with official matters or applications before a government agency.” The NTA is to be issued even if such fraud was not the basis for the denial or the individual has withdrawn their application. The memorandum also allows for groups of cases to be transferred to ICE prior to the cases’ adjudication, if there are “articulated suspicions” of fraud associated with the cases.

**Meaning of “abuse of public benefits.”** The term “abuse of public benefits” does not have a precise legal meaning, but in a [Q&A](#) issued after the Jan. 25, 2017, executive order, DHS clarifies that it refers to people who have “knowingly defrauded the government or a public benefit system.”<sup>7</sup> It is important to note that, under existing law, fraud or willful misrepresentation on an application for an *immigration benefit* makes a person inadmissible, and committing fraud on an application for *public benefits* can present a risk of immigration consequences (e.g., if a person is applying for U.S. citizenship or is referred for prosecution).

**Policy change is unrelated to “public charge.”** The memorandum changes only the USCIS agent’s ability to exercise discretion in deciding whether to issue the NTA. The change in policy is unrelated to *public charge* and does not apply to an eligible individual’s or family member’s legitimate use of public benefits.

### New policy’s applicability to people’s receipt of public benefits is narrow

There are many reasons to be concerned about the new policy. It will further burden the overloaded immigration courts with low-priority cases, such as people denied extensions of nonimmigrant or student visas. It will create a chilling effect that deters people who are eligible for immigration benefits from applying for them, since they will be placed in removal proceedings if their applications are denied. Nonetheless, its applicability to the receipt of public benefits is narrow.

### For more information

For more information on the June 28 memorandum, see CLINIC’s [Practice Pointer: New USCIS NTA Guidance Memo](#) and the AILA’s [Policy Brief: New USCIS Notice to Appear Guidance](#).<sup>8</sup>

<sup>6</sup> See U.S. Citizenship and Immigration Services Policy Memorandum, PM-602-0161, Subject: Guidance for the Referral of Cases and Issuance of Notices to Appear (NTAs) When Processing a Case Involving Information Submitted by a Deferred Action for Childhood Arrivals (DACA) Requestor in Connection With a DACA Request or a DACA-Related Benefit Request (Past or Pending) or Pursuing Termination of DACA, June 28, 2018, <https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/2018/2018-06-28-PM-602-0161-DACA-Notice-to-Appear.pdf>.

<sup>7</sup> Q&A: *DHS Implementation of the Executive Order on Enhancing Public Safety in the Interior of the United States* (U.S. Dept. of Homeland Security, Feb. 21, 2017), <https://www.dhs.gov/news/2017/02/21/qa-dhs-implementation-executive-order-enhancing-public-safety-interior-united-states>, answer 18.

<sup>8</sup> CLINIC: <https://cliniclegal.org/resources/practice-pointer-usciss-new-nta-guidance-memo>; AILA: <https://www.aila.org/infonet/aila-policy-brief-new-uscis-notice-to-appear>.

## PROPOSED CHANGES TO PUBLIC CHARGE: ANALYSIS and FREQUENTLY ASKED QUESTIONS

### ANALYSIS

**\*\* See Page 6 for Answers to Frequently Asked Questions \*\***

#### **How the public charge policy is applied today**

The current definition of “public charge” is a person who has become or is likely to become primarily dependent on the government for subsistence. Under the current policy, which USCIS has not changed and will not change for some time, the only benefits considered in the public charge test are:

- Cash assistance such as Supplemental Security Income (SSI), Temporary Assistance for Needy Families (TANF) and comparable state or local programs.
- Government-funded long-term institutional care.

#### **How the public charge policy could change**

On October 10, the Department of Homeland Security (DHS) [posted a proposed public charge regulation](#) (a Notice of Proposed Rulemaking) in the federal register, asking the public to submit comments by December 10, 2018, before it becomes final.

If the regulation is finalized in its proposed form, it would mark a significant and harmful departure from the current policy. For over a hundred years, the government has recognized that work supports like health care, nutrition and housing assistance help families thrive and remain productive. And decades ago, the government clarified that immigrant families can seek health care, nutrition and housing assistance without fear that doing so will harm their immigration cases. **If this rule is finalized, we can no longer offer that assurance.**

The proposal weighs a range of factors in deciding whether a person is likely to use certain public benefits in the future, and would make it much more difficult for low and moderate-income immigrants to get a green card, extend or change their temporary status in the US. The proposed test would weigh each of the following *negatively* in public charge decisions: earning less than 125% of the federal poverty level (FPL), being a child or a senior, having certain health conditions, limited English ability, less than a high school education, a poor credit history, and other factors.

#### **Key points from the proposed rule**

- It dramatically changes the definition of public charge to apply to anyone who is likely to use more than a minimal amount of certain cash, health, nutrition or housing programs.



- It applies a similar test to bar extensions of non-immigrant visas, and changes of non-immigrant status (e.g., from a student visa to an employment visa).

### **New standards and heavily weighted factors**

- The proposed rule adopts new income thresholds for households seeking to overcome a “public charge” test - by giving negative weight to immigrants who earn less than 125 percent of the Federal Poverty Level (\$31,375 for a family of four) - and by weighing as “heavily positive” a household income of 250 percent of the Federal Poverty Level. To reach that threshold, a family of 4 would need to earn nearly \$63,000 annually.
- In evaluating criteria that include age, health, family status, and education, the proposed rules give negative weight to children or seniors, persons with limited English proficiency, poor credit history, limited education, or a large family. The proposed rule also considers whether an applicant sought or obtained a fee waiver in applying for an immigration benefit – on or after the effective date of the final rule.
- The proposed regulations establish “heavily negative” factors, including health conditions that require extensive treatment or that affect an applicant's ability to work, attend school or care for themselves – unless they have access to private health insurance or resources to pay for treatment.
- Receipt of the listed benefits during the 36 months prior to applying for admission or a “green card” also would be counted as heavily weighted negative factors in the public charge determination. Benefits used prior to the effective date of the final rule would not be considered in this “look back” period, except for the two benefits considered under the current policy: cash assistance and long-term care.

The single heavily weighted positive factor is having income or resources of over 250 percent of the federal poverty level -- nearly \$63,000 a year for a family of four.

### **Benefits**

- The proposal expands the types of benefits that could be considered in a “public charge” determination to include key programs that provide no income support but merely help participants address their basic needs. These programs include:
  - Medicaid (with limited exceptions including Medicaid coverage of an "emergency medical condition," and certain disability services related to education);
  - Supplemental Nutrition Assistance Program (SNAP)(formerly called food stamps);
  - Medicare Part D Low Income Subsidy (assistance in purchasing medicine);
  - Federal Public Housing, Section 8 housing vouchers and Section 8 Project Based rental assistance.

Note: DHS asks for input on inclusion of the Children’s Health Insurance Program (CHIP), but this program is not included in the proposed regulatory text.

- The threshold for counting these benefits is based on the amount of benefits for which the value can be quantified, and on the length of time received for other programs.
  - For benefits that can be quantified (“monetizable benefits”), the threshold would be 15% of the poverty level for a single person (currently \$1,821) in a 12-month period.
  - For benefits with an undetermined value (“nonmonetizable benefits”) the limit would be 12 months in a 36-month period or 9 months if an applicant received both kinds of benefits.

- DHS will not consider benefits received by an applicant’s family members, or any programs not specifically listed in the rule.
- DHS will not consider programs funded entirely by states, localities or tribes, with exceptions for cash assistance and long-term care programs.
- The regulation also proposes to exclude benefits received by active duty servicemembers, military reservists and their spouses and children.
- The rule would not be retroactive. This means that benefits -- other than cash or long-term care at government expense -- that are used before the rule is final and effective will not be considered in the public charge determination.
- Benefits not listed, such as education, child development, disaster assistance, employment and job training programs, and legal assistance are also excluded. **See table below.**

Benefits <u>Included</u> for Public Charge	Benefits <u>Excluded</u> from Public Charge
<p><i>Benefits included:</i></p> <ul style="list-style-type: none"> <li>● Cash Support for Income Maintenance*</li> <li>● Long Term Institutional Care at Government Expense*</li> <li>● Non-Emergency Medicaid**</li> <li>● Supplemental Nutrition Assistance Program (SNAP or Food Stamps)</li> <li>● Medicare Part D Low Income Subsidy</li> <li>● Housing Assistance (Public Housing or Section 8 Housing Vouchers and Rental Assistance)</li> </ul> <p><i>* Included under current policy as well</i> <i>** Exception for certain disability services offered in school. DHS is asking for input on inclusion of CHIP, but the program is not included in the regulatory text</i></p>	<p><i>ANY benefits not on the included list will not be applied toward the public charge test, such as:</i></p> <ul style="list-style-type: none"> <li>● Disaster relief</li> <li>● Emergency medical assistance</li> <li>● Entirely state, local or tribal programs (other than cash assistance or institutionalization for long-term care)</li> <li>● Benefits received by immigrant’s family members</li> <li>● CHIP*</li> <li>● Women Infants and Children (WIC)</li> <li>● School Breakfast and Lunch</li> <li>● Energy Assistance (LIHEAP)</li> <li>● Transportation vouchers or non cash transportation services</li> <li>● Non-cash TANF benefits</li> <li>● Federal Earned Income Tax Credit and Child Tax Credit</li> <li>● Student Loans</li> </ul> <p><i>*DHS is asking for input on inclusion of CHIP, but the program is not included in the regulatory text.</i></p>

**Other issues**

- The proposed rule offers only one way for an immigrant to cure a public charge issue: paying a public charge bond. This means that people deemed likely to become a public charge, because of their moderate income, a health condition like cancer, or other factors, may be required to pay a minimum of \$10,000 for admission (or higher if private bond companies are allowed to charge them fees for advancing bond money) and would risk losing this bond if they use any public benefits listed in the rule.

- The proposed rule does not interpret or expand the public charge ground of deportability. Under current law, a person who has become a public charge can be deported only in extremely rare circumstances. The Department of Justice may propose a separate rule that addresses this ground.

### How does this differ from previous drafts of the rule?

In some ways, the proposed rule is narrower than the drafts leaked to the media this spring. However, the proposed changes would make it significantly more difficult for low and moderate-income families, and those with any of the negatively weighed factors to immigrate. It will also chill access to critical services broadly – with devastating impacts on children, families and communities. Children will be harmed under this proposal, as parent and child health are inextricably linked. If adults avoid seeking nutrition assistance under SNAP for themselves or their children, the family will have less access to nutritious food.

Immigrant families already have been dropping off programs in response to press accounts about public charge. Even though the proposed changes would not take effect until months after the rule is finalized -- and would apply only to benefits received after that point -- the threat of changes will cause more fear and confusion about how this test works.

### Things to keep in mind

Some immigrant groups are not subject to “public charge.” Certain immigrants—such as refugees, asylees, survivors of domestic violence, and other protected groups—are not subject to “public charge” determinations and would not be affected by this proposed rule if they seek status or a green card through these pathways. Public charge is also not a consideration when lawful permanent residents (green card holders) apply to become U.S. citizens.

Immigration officials must consider all of an immigrant’s circumstances. The public charge statute — which cannot be changed by regulations — requires immigration officials to look at all factors that relate to noncitizens’ ability to support themselves, including their age, health, income, assets, resources, education/skills, family members they support, and family who will support them. They may also consider whether a sponsor has signed an affidavit of support (a contract) promising to support the noncitizen. Since the test looks at the person’s overall circumstances prospectively, no one factor is definitive. Any negative factor, such as not having a job, can be overcome by positive factors, such as having completed training for a new profession or having college-educated children who will help support the family.

### What happens next?

Now that the rule has been published in the federal register, the public has 60 days – until **December 10, 2018** -- to submit comments. Individual comments can be submitted directly to [regulations.gov](https://www.regulations.gov) with a few clicks at <https://protectingimmigrantfamilies.org/>. Organizations should also submit comments identifying the harm this rule would cause on the [comment portal](https://www.regulations.gov) on [regulations.gov](https://www.regulations.gov). For materials to help support your organizational comments, please contact [co-chairs@protectingimmigrantfamilies.org](mailto:co-chairs@protectingimmigrantfamilies.org). After DHS carefully considers public comments received on the proposed rule, DHS plans to issue a final public charge rule that will include an effective date at least 60 days after the date the *final* rule is

published. In the meantime, and until a final rule is in effect, USCIS will continue to apply the current public charge policy (i.e., the [1999 INS Interim Field Guidance](#)).

## FREQUENTLY ASKED QUESTIONS

*Below are answers to some of the most common questions about the public charge policy we have received in the past few weeks. If your question is not answered here, policy experts at NILC and CLASP will continue to review questions submitted through this central form: <https://bit.ly/askPIFcampaign>.*

*For questions about the notice and comment process, and how to submit the most effective comments, please see [this companion document](#).*

### **IMPACT**

#### **When is a public charge determination made?**

An assessment of whether a person is likely to become a public charge is made at two points: when the person applies for admission to the U.S. and when the person applies for lawful permanent resident (LPR) status. There is no public charge assessment when a person applies to become a naturalized citizen.

#### **Who is affected by the proposed public charge regulations?**

The proposed regulations would affect anyone in the United States who is not exempt from public charge and is applying for admission to the country or lawful permanent resident (LPR) status. It would also affect people with non-immigrant visas who are applying to extend their visa or change its category. Decisions about people applying for admission or LPR status outside the U.S. are guided by the Foreign Affairs Manual, published by the State Department. Once the regulations become final, we expect the State Department to revise the Foreign Affairs Manual to conform to them.

#### **How can the rule affect people who aren't eligible for the listed benefits?**

Anybody in the U.S. who is applying for admission or to adjust to LPR status, who isn't exempt from public charge, could be affected because the public charge assessment is forward-looking. The USCIS officer is looking at whether the applicant is likely at any point in the future to become a public charge, based on an array of factors that include their income and resources, education and employment history, age and health. A person's current benefits eligibility does not limit this inquiry, since they may become eligible for benefits in the future.

#### **Which immigrants are exempt from public charge?**

The following categories of noncitizens are not subject to a public charge test or can qualify for a waiver of that test: refugees; asylees; survivors of trafficking, domestic violence, or other serious crimes (T or U visa applicants/holders); VAWA self-petitioners; special immigrant juveniles; certain people paroled into the U.S.; and several other categories of immigrants.

### What categories of immigrants are both eligible for the programs in the rule, and also potentially subject to public charge grounds of inadmissibility?

Although many immigrants who are eligible for the listed programs are not subject to public charge determinations, some individuals could be penalized for using benefits for which they are eligible. Here is an overview of the groups that could be harmed by the use of benefits factor in the proposed test:

Examples include:

- All programs: Lawful permanent residents who leave the US for more than 6 months and attempt to reenter the country.
- Medicaid/SNAP/Housing: Some people granted parole, withholding of removal, and a subset of Cuban/Haitian entrants may have a pathway to permanent status that subjects them to public charge (like a family-based visa petition).
- Medicaid: Over 30 states offer Medicaid to lawfully residing children and/or pregnant women who may be subject to public charge determinations when they seek a green card or attempt to extend or change their temporary non-immigrant status.
- Housing: Citizens of Micronesia, Marshall Islands or Palau who are eligible for housing subsidies could be subject to public charge determinations if they leave the US and attempt to reenter, or if they seek a green card through a family-based visa petition or another pathway where public charge is applied.
- Medicare Part D: In addition to LPRs who have resided continuously in the US for at least 5 years, subsidies may be available to some lawfully present immigrants with a lengthy work history in the US. Some of these individuals could be affected by the test.
- *And - some otherwise exempt individuals who decide to adjust status through a family relationship instead of a pathway for which a public charge exemption exists.*

Many more families will likely be deterred from using benefits for themselves or their families, even if they are not subject to a public charge test. These families are likely to forego critical health, nutrition or housing programs that they need to remain healthy and employed. We have already seen people withdrawing from benefit programs due to fear, even though the proposed rule has not gone into effect. *Even if an immigrant isn't currently eligible for a benefit, since the public charge test considers whether a person is likely at any time to become a public charge. Immigration officials could consider whether an individual is likely to use those benefits in the future -- including after they have obtained a green card or even citizenship.*

### Does the public charge determination apply to non-immigrant visas too? Or only applicants for immigrant visas?

People applying for immigrant and non-immigrant visas at consulates abroad are assessed to determine whether they are likely to become a public charge. However, that determination is made by consular officials following guidance from the State Department in the Foreign Affairs Manual (FAM). [The FAM guidance](#) uses the current definition of public charge (likely to rely primarily on cash assistance or long-term care). It allows the officials to consider a broad range of benefits used by the applicants, their dependents or sponsors in making this determination. If this NPRM is finalized, however, the State Department will likely change its policy to align with the USCIS rule.

The proposed rule would apply a test that is similar to the public charge test to people in the U.S. who seek to extend a temporary non-immigrant visa, as well as those seeking to change the category of their non-immigrant visa (for example from a student to an employment-based visa).

**Will this rule affect immigrants who are already green card holders or U.S. citizens?**

The proposed rule would not affect individuals who have already become US Citizens. Lawful permanent residents (green card holders) will not be subject to a public charge inadmissibility determination when they apply to become a U.S. citizen. Under both current law and the proposed rule, green card holders who are outside the U.S. for more than 180 consecutive days (6 months) may be subject to a determination of admissibility, including a public charge assessment, when seeking to re-enter the U.S. and should consult with an immigration attorney prior to departure. LPRs are also subject to an admissibility determination in cases where they have abandoned their residency, commit certain crimes, or left the country while in removal proceedings.

**I understand the public charge test does not apply to renewals of permanent resident cards, would that still be the case under the proposed rule?**

A person's lawful permanent residence does not expire when the green card expires. Since there is no new admissions test when people renew their green card, the public charge ground of inadmissibility would not apply at that stage.

## THE PUBLIC CHARGE TEST

**Who makes the decision of whether someone is likely to become a public charge?**

For individuals applying to enter the US from abroad, consular officials (employed by the State Department) make the public charge determination based on criteria in the Foreign Affairs Manual (FAM). For individuals in the US applying for a green card or applying to extend/change their non-immigrant status, the public charge determination is made by USCIS based on criteria in the statute, any implementing regulations and field guidance. In some cases, individuals in the U.S. may be required to leave and go through consular processing to secure lawful permanent residence.

**Will this rule be binding on both USCIS cases where immigrant seeks adjustment of status in the U.S. and cases for those who seek admission through a U.S consulate abroad?**

This rule applies to USCIS and covers applicants for adjustment of status in the U.S. as well as nonimmigrants in the U.S. seeking to extend or change their nonimmigrant status in the US. The State Department recently revised its instructions in the Foreign Affairs Manual (FAM) for consular officials considering individuals seeking to enter the U.S. The FAM guidance uses the current definition of public charge (likely to rely primarily on cash assistance or long-term care). It allows the officials to consider a broad range of benefits used by the applicants, their dependents or sponsors in making this determination. More information on the FAM changes is [available here](#). It's likely that the State Department will revise its policies again to conform with USCIS rules if and when they become final.

### **Can a public charge determination be retroactive?**

The public charge determination will remain a forward-looking/prospective test based on the totality of the applicant's circumstances. However, the government may consider the past use of benefits to make prospective public charge determinations. Benefits that were previously excluded from the public charge test (anything other than cash or long-term institutional care) will NOT be considered *unless received after the final rule is effective*. Thus, the use of non-cash benefits like SNAP, Medicaid or housing assistance before the rule is finalized cannot be considered in the prospective public charge determination. Since there will be at least 60 days between when the rule is finalized and when the rule becomes effective, individuals will have an opportunity to decide whether to disenroll from federal benefits they may be receiving.

### **A heavily weighed negative factor is the receipt of a public benefit within the past 36 months. How does this intersect with the rule not being retroactive? For example, if the rule takes effect on 2/1/19, and an individual has been enrolled in Medicaid since 10/1/18, won't DHS look at their Medicaid enrollment and count it against this individual?**

Only cash assistance and long-term care used prior the final rule's effective date can be considered. Receipt of any other benefits (Medicaid, SNAP, housing assistance, Medicare LIS) could not be considered until the rule's effective date. Thus, USCIS will not be able to do a complete 3-year look back on the health care, nutrition and housing benefits added by the proposed rule until 3 years after the rule's effective date.

### **How soon could the rule take effect?**

The rule cannot take effect until at least 60 days after DHS publishes a final rule, which cannot be published until after the comment period ends on December 10<sup>th</sup>. The final published rule may have a later effective date; DHS asks for input in the NPRM whether additional transition time is needed. Under usual circumstances, it would take at least six months and possibly a year or more for an agency to review and respond to comments on a rule this complicated. However, it is possible that this Administration may try to rush the approval process and post a final rule more quickly.

### **Does the rule include any language about exempting pregnancy Medicaid?**

The rule does not include any exemption for pregnancy-related services paid by Medicaid, however, emergency services exempted by the rule include labor and delivery services.

### **Is a dependent's use of benefits considered in the immigrant's public charge test (e.g. if a US citizen child uses Medicaid, but the noncitizen parent uses no benefits, does the child's use of Medicaid still affect the parent's green card application)?**

No. In the proposed rule, only the applicant's use of benefits is taken into consideration. Receipt of benefits by dependents and other household members would not be considered in determining whether the immigrant applicant is likely to become a public charge. In cases where other members of a



household may be eligible for a benefit (such as SNAP or Public Housing), only benefits received by the immigrant applying for status - not their household members - would be considered.

**How will non-benefits issues, like income thresholds and English proficiency, be considered?**

The public charge assessment takes into consideration all the factors relevant to a person's ability to support themselves and any dependents. Immigration law provides a list of factors that USCIS must consider in a public charge determination: age, health, family status, assets, resources and income and education and skills. The proposed rules add 'evidentiary factors' to each of those statutory factors, and also add heavily weighted factors. Among the evidentiary factors to be considered are whether a person has an income over 125% of the federal poverty level, whether they are working age, defined as between 18 and 61 years old and whether they are proficient in English. The heavily weighted factors are similar, and also include whether a person has been previously determined to be a public charge or likely to become a public charge. Five of the six heavily weighted factors are negative, the only factor weighed heavily positive is whether the person's household has income or assets greater than 250% of the federal poverty level, nearly \$63,000 for a family of four.

**By giving negative weight to immigrants (not just sponsors) who earn under 125% of the Federal Poverty Level, is this setting an income floor for obtaining LPR status? Does income of 250% of the Federal Poverty line mean that an immigrant cannot be a public charge?**

Under the rule, people earning under 125% percent of the federal poverty level (\$31,375 annually for a family of 4) would be weighed negatively. Earning over 250% of the federal poverty level (\$62,750 annually for a family of 4) would be a heavily weighted positive factor. Public charge remains a totality of circumstances test. Household income carries weight but will not necessarily be dispositive.

## **ADMISSION FROM ABROAD**

**Related to the FAM changes, is it still the case that refugees, trafficking victims, etc. (those who were excluded previously) will not be subject to public charge abroad before they enter the US?**

Yes. Congress has exempted certain classes of immigrants from the public charge ground of inadmissibility. Under federal law, which cannot be changed by issuing a regulation or administrative guidance, the following categories of noncitizens are not subject to a public charge test or can qualify for a waiver of that test if they apply for status through these specific pathways: refugees; asylees; survivors of trafficking, domestic violence, or other serious crimes (T or U visa applicants/holders); VAWA self-petitioners; special immigrant juveniles; certain people paroled into the U.S.; and several other categories of immigrants.

**Could H2A visa applicants be denied their visa if they plan to enroll in the ACA? Are they subject to the public charge rule for admission the U.S.?**

Subsidized ACA coverage is not considered in the public charge analysis set forth in the proposed rule. However, people applying for nonimmigrant visas (like H2A work visas) at consulates abroad will be

assessed to determine whether they are likely to become a public charge under the policies set forth in the Foreign Affairs Manual (FAM). It's not clear whether the State Dept is currently assessing a visa applicant's likelihood of using ACA subsidies in the public charge determination. If this DHS rule were finalized as drafted, the State Dept would likely change its policy to conform.

## DEPORTATION

**Does the immigration law allow DHS to deport an individual (as opposed to simply prevent admission) if they become dependent on public benefits? Could a finding of public charge make an immigrant removable? Will the NPRM change this?**

Immigration law provides that a person who has become a public charge, within five years of their last entry to the U.S., for reasons that existed before they entered the country may be deportable. Department of Justice decisions additionally require that all of the following be present before a person could be deported on public charge grounds:

- The person or sponsor had a legal obligation to repay the cost of a benefit
- The person or sponsor received notice of the repayment obligation within five years of the person's last entry to the U.S.
- The benefits-granting agency has obtained a legal judgment requiring repayment of the benefit, and has not received repayment

While the NPRM interprets the public charge grounds of inadmissibility, and not public charge deportability, it states that "Department of Justice precedent decisions would continue to govern the standards regarding public charge deportability determinations." DHS also released a Q&A document which states that "The Department of Justice intends to conduct a parallel rulemaking on public charge deportability". Although DOJ may seek to change the public charge definition to conform with the DHS rule (when finalized), we don't know if it will seek codification of existing case law and guidance, or if it will attempt to lower the bar.



# How to Talk About Public Charge with Immigrants and Their Families

Last updated **OCTOBER 18, 2018**

This issue brief summarizes topline Protecting Immigrant Families Campaign messages and talking points recommended when communicating with immigrant communities.

**Please use the core message, along with any or all the topline messages.** The messages are followed by a more extensive set of talking points aligned with the topline messages.

Partners should also feel free to tailor any of the messages — including the specific wording of the core message — to suit their organization’s communications and community engagement strategy. For example, the talking points mention poverty and hunger among the rule’s consequences, but if your organization works on health issues, we encourage you to add “unmet health needs” or your organization’s preferred language concerning the problem.

## Topline messages

### Core message

- You are not alone, and there’s still time to fight back.

### Other topline messages

- The policy on public charge decisions made within the U.S. has not yet changed.
- The rule is still just a proposal. The government is accepting comments from the public on the proposal until December 10. The rule cannot be final until after the comment period ends and the government reviews and responds to all the comments. Then, if a final rule is published, there will be another waiting period before the rule is implemented.
- Not all immigrants are subject to the public charge test.
- The public charge test looks at all the person’s circumstances, weighing positive factors against any negative ones.

## How to Talk About Public Charge with Immigrants and Their Families

- If the proposed rule becomes final, noncash benefits (other than long-term care) used before that time will not be considered. Using benefits now can help you or your family members become healthier, stronger, and more employable in the future.
- Federal and state laws protect the privacy of people who apply for or receive health care coverage, nutrition, economic support, or other public benefits.
- Get help deciding what's best for your family and, if you can, consult with an immigration attorney or a Board of Immigration Appeals–accredited representative about your own situation.

### Talking points

**You are not alone.** The Trump administration's proposed public charge rule would force immigrant families to choose between the things they need and the people they love. The resulting spikes in poverty, hunger, and other social problems would affect millions, making this a threat to the whole country.

**There's still time to fight back.** People all over the country are standing up to Trump and fighting back against this harmful proposal. Leading voices for health, nutrition, economic opportunity, and social justice are united in opposing the proposed changes to public charge policy. They are sounding the alarm in news media, engaging policymakers, and rallying communities like yours to fight this abusive policy. Join us in sharing your story, submitting comments, and letting your legislators know that you care about this issue! To submit a comment today, visit [www.ProtectingImmigrantFamilies.org](http://www.ProtectingImmigrantFamilies.org).

**The rules on public charge decisions made within the U.S. have *not yet* changed.** While U.S. consulates abroad have been asking more questions about immigrants and their sponsors, these changes apply only to individuals who are seeking to enter the U.S. from abroad or who must go abroad to process their applications. For green card applications processed by in the U.S., the public charge policies have not changed.

**The rule has not yet been published. It cannot be implemented until it becomes final, which will take additional time.** The Trump administration proposed the rule on October 10, 2018, and the U.S. Department of Homeland Security is accepting public comments on the proposed rule until December 10, 2018. The law gives all of us a **chance to speak out** (submit comments) before the government finalizes the rule. Once comments about the rule are submitted, **the review process can take months**. In fact, some proposed rules are never finalized. If the rule is finalized, it may not take effect until weeks or months after the final version is published.

**Some immigrants are exempted by law from the public charge test. Exempt immigrants (or those eligible for a waiver) include:** refugees; asylees; survivors of trafficking, domestic violence, or other serious crimes (T or U visa applicants/holders); VAWA self-petitioners; special immigrant juveniles; and certain people paroled into the U.S. And lawful permanent residents (green card–holders) are not subject to the public charge test when they

## How to Talk About Public Charge with Immigrants and Their Families

apply for U.S. citizenship. These exceptions will remain in place, even if the proposed regulation is finalized.

### **The public charge test weighs positive factors against any negative ones.**

Immigration officials must look at all your circumstances in determining whether you are likely to become a public charge in the future. This includes your age, health, income, assets, resources, education/skills, family you must support, and family who will support you. They may also consider whether a sponsor has signed an affidavit of support (or contract) promising to support you. Positive factors can be weighed against any negative factors.

### **If the rule is finalized, you will have time to act before the rule goes into effect.**

Under the proposal, benefits previously excluded from the public charge determination (such as Medicaid and SNAP, the Supplemental Nutrition Assistance Program) will be considered only if those benefits are received after the final rule is published. Using benefits now can help you or your family members become healthier, stronger, and more employable in the future. Families need to make decisions based on their unique circumstances and needs.

**Federal and state laws protect the privacy of people who apply for or receive health care coverage or nutrition assistance, economic support, or help from other public programs.** Applications for public programs should not request information about the immigration status of nonapplicants in the household. Benefit agencies may share information with other government agencies only for purposes of administering their programs, with limited exceptions. You can provide only the information necessary and should not misrepresent anything when completing public benefit applications or dealing with any government agency.

**Get help deciding what's best for your family and, if you can, consult with an immigration attorney or BIA-accredited representative about your own situation.** Advocates and health and social service providers all over the country have been monitoring the public charge rule. Many local leaders can help concerned families find free or low-cost immigration help. You can use this online directory to search for local nonprofit organizations that provide legal help and advice: [www.ImmigrationLawHelp.org](http://www.ImmigrationLawHelp.org).

# THE PIF CAMPAIGN

## Protecting Immigrant Families, Advancing our Future

**Our vision:** A nation where all are truly equal, immigration is recognized as a strength, and no one in America is denied the essentials of life because of where they were born.

**Our purpose:** To unite 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.

The Trump Administration has made clear its intent to make life more difficult for low-income immigrant families by restricting their ability to access basic programs that safeguard their health care, nutrition, housing, and economic security. Adding additional barriers to accessing programs like Medicaid and the Supplemental Nutrition Assistance Program (SNAP) will drive up poverty among families with children and have lasting consequences on the well-being of immigrant families and the communities in which they live.

### Fighting an expanded “public charge” test

One of the most urgent threats is the Administration’s proposal to redefine “public charge,” so that only those with substantial incomes or resources would qualify for entry or adjustment of status. Current law authorizes a bar to entry or permanent legal status if an immigrant is likely to become dependent on cash “welfare” or long-term institutional care at government expense. But current policy does not consider an immigrant’s likely eligibility for non-cash supports that help so many working families climb the economic ladder. The possibility of changes to public charge has been rumored since early 2017, and in January 2018, the State Department revised its instructions to consular officials on public charge, adding the use of any public benefit by the person seeking a visa to enter the country, their family members, or their sponsor to the public charge consideration. These rumors and changes have already led to many immigrants choosing not to enroll themselves or their citizen children in critical programs despite their being eligible.

In October 2018, the Administration issued a proposed rule to formally redefine public charge so that even modest receipt of programs including non-emergency Medicaid, SNAP, help paying for prescription drugs under Medicare Part D, and several housing programs can be counted against immigrants seeking a green card. It weighs a range of factors in deciding whether a person is likely to use certain public benefits in the future, and would make it much more difficult for low and moderate-income immigrants to get a green card, extend or change their temporary status in the US.

This proposed regulation would mark a fundamental change from our nation's historic commitment to welcoming immigrants. It would radically reshape our legal immigration system, putting the wealthy at the front of the line, ahead of hardworking families who have waited years to reunite. No longer would the U.S. be a beacon for the world’s dreamers and strivers. Instead, America’s doors would be open only to the highest bidder.

### Part of a pattern of attack on low-income immigrant families

Several legislative proposals in 2017 included provisions seeking to bar immigrant families from accessing basic health care and nutrition assistance. For example, Affordable Care Act “repeal and replace” legislation included provisions to bar additional classes of immigrants from purchasing insurance in the marketplace. Later in the year, the RAISE Act attempted to bar immigrant families from basic health care and nutrition assistance and

created new barriers to naturalization simply for needing this help. The enacted tax bill included restrictions on children without Social Security numbers receiving the child tax credit.

### Protecting Immigrant Families, Advancing Our Future Campaign

The Protecting Immigrant Families, Advancing Our Future campaign, co-chaired by the Center for Law and Social Policy (CLASP) and the National Immigration Law Center (NILC) brings together leading advocates for immigrants, children, education, health, anti-hunger and anti-poverty groups, and faith leaders, not only to defend against these threats, but also to lay the foundation for a more productive national dialogue about our immigrant tradition and our country's future.

- **Vision:** A nation where all are truly equal, immigration is recognized as a strength, and no one in America is denied the essentials of life because of where they were born.
- **Purpose:** Unite 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.

### Work of the campaign

- Building a network of state, local, and national organizations that brings together the various sectors potentially impacted by these threats and working together to align, coordinate, strategize, and take action
- Offering united public opposition to policy changes that would limit immigration only to immigrants with substantial resources, use poverty as a weapon against immigrants and use immigration status as a weapon against the poor
- Advocating for public policy that includes immigrants in the United States' fundamental promise of life, liberty, and the pursuit of happiness
- Researching the impact of public policy threats and the best way to explain those threats to policymakers and the broader public
- Communicating with the public about a future built together by those whose families have been in the United States for generations and those who come today

# THE PIF CAMPAIGN

## STATE and LOCAL Active Members

### Arizona

Mountain Park Health Center

### California

Asian Health Services  
Bet Tzedek Legal Services  
California Association of Food Banks  
California Food Policy Advocates  
California Immigrant Policy Center (CIPC)  
California LULAC  
California Pan-Ethnic Health Network  
California Primary Care Association  
California WIC Association  
CaliforniaHealth+ Advocates  
Casa San Jose  
Child Care Law Center  
Children Now  
Children's Defense Fund - California  
Coalition for Humane Immigrant Rights (CHIRLA)  
Community Action Board of Santa Cruz County  
Community Action Marin  
Community Clinic Association of Los Angeles County  
Community Clinic Consortium  
Council of American-Islamic Relations (CAIR)  
County Welfare Directors Association of California  
Dignity Health  
First 5 Marin Children and Families Commission  
Latino Coalition for a Healthy California  
Legal Aid Society of San Mateo County  
Marin Community Foundation  
Northern California Grantmakers  
Redwood Community Health Coalition  
San Francisco Poster Syndicate  
SEIU State Council Californus  
Services, Immigrant Rights, and Education Network  
The California Association of Public Hospitals and Health Systems  
The Children's Partnership  
TODEC Legal Center

### Colorado

Center for Health Progress  
Colorado Center on Law and Policy  
Colorado Children's Campaign  
Colorado Immigrant Rights Coalition  
Colorado People's Alliance  
Mountain Family Health Centers

### District of Columbia

D.C. Action for Children  
D.C. Fiscal Policy Institute  
D.C. Immigration Hub

### Florida

Community Justice Project, Inc.  
Florida Health Justice Project  
Florida Immigrant Coalition  
Florida Legal Services, Inc.  
Florida Policy Institute  
Sant La Haitian Neighborhood Center  
WeCount!

### Idaho

Centro de Comunidad y Justicia (CCJ)  
Idaho Voices for Children (Voices)  
The Interfaith Alliance of Idaho

### Illinois

Alianza Americas  
Community Organizing and Family Issues  
Greater Chicago Food Depository  
Healthy Illinois Campaign  
Illinois Chapter, American Academy of Pediatrics  
Illinois Coalition for Immigrant & Refugee Rights  
Illinois Hunger Coalition  
Lake County Immigrant Advocacy  
Latino Policy Forum  
Legal Council for Health Justice  
PODER Northwestern Law Student Group

### Kansas

Advocates for Immigrant Rights and Reconciliation  
Kansas Action for Children (KAC)  
Kansas Appleseed  
Kansas Center for Economic Growth  
Tonantzlin Society

### Louisiana

Louisiana Budget Project

### Maine

Maine Equal Justice  
Maine Immigrants' Rights Coalition (MIRC)

### Maryland

CASA  
Violence Intervention Program

### Massachusetts

Children's HealthWatch  
Health Care For All  
Massachusetts Immigrant and Refugee Advocacy Coalition  
Massachusetts Law Reform Institute

### Michigan

Arab Community Center for Economic and Social Services  
Michigan Immigrant Rights Center (MIRC)  
Michigan League for Public Policy (the League)

### Minnesota

Immigrant Law Center of Minnesota  
Mid Minnesota Legal Aid

### Missouri

KC Metro Immigration Alliance  
Missouri Immigrant and Refugee Advocates

### Nebraska

Nebraska Appleseed  
Voices for Children in Nebraska

### New Mexico

New Mexico Center on Law and Poverty

### New York

African Services Committee  
Asian American Legal Defense and Education Fund  
Cabriní Immigrant Services of NYC  
Care for the Homeless  
Coalition for Asian American Children and Families  
Emerald Isle Immigration Center  
Empire Justice Center  
Fiscal Policy Institute

Make the Road New York  
Mobilization For Justice, Inc.  
New York Immigration Coalition (NYIC)  
New York Lawyers for the Public Interest  
The Federation of Protestant Welfare Agencies  
The Legal Aid Society

### North Carolina

Carolina Jews for Justice  
Charlotte Center for Legal Advocacy  
North Carolina Justice Center  
ParentsTogether

### Ohio

Asian Services In Action, Inc. (ASIA, Inc.)  
El Centro De Servicios Sociales INC.

### Oregon

Causa Oregon  
Oregon Food Bank

### Pennsylvania

Community Legal Services of Philadelphia  
Pennsylvania Immigration and Citizenship Coalition  
Philadelphia Women's Center

### South Carolina

PASOs  
South Carolina Appleseed Legal Justice Center

### Tennessee

Tennessee Immigrant and Refugee Rights Coalition  
Tennessee Justice Center

### Texas

Center for Public Policy Priorities  
Children at Risk  
Children's Defense Fund - Texas  
Houston Immigration Legal Services Collaborative  
Workers Defense Project

### Utah

Utahns Against Hunger  
Voices for Utah Children

### Virginia

Virginia Coalition of Latino Organizations  
Virginia Interfaith Center for Public Policy  
Virginia Poverty Law Center

### Washington

Asian Counseling and Referral Service  
Children's Alliance (WA)  
Columbia Legal Services  
Entre Hermanos  
Latinos Promoting Good Health  
Northwest Health Law Advocates (NoHLA)  
OneAmerica  
Refugee Connections Spokane

### Wisconsin

End Domestic Abuse Wisconsin  
Kids Forward  
Wisconsin Faith Voices for Justice

To join the Protecting Immigrant Families Campaign as an Active Member, please go to [bit.ly/PIFActivemember](https://bit.ly/PIFActivemember)



## THE PIF CAMPAIGN NATIONAL Active Members

1,000 Days  
Advancing Justice  
America's Voice  
American Academy of Pediatrics  
American Federation of Teachers (AFT)  
American Immigration Lawyers Association  
American Public Health Association  
Asian & Pacific Islander American Health Forum  
Asian Pacific Institute on Gender-Based Violence  
Association of Asian Pacific Community Health Organizations  
Autistic Self Advocacy Network  
Berkeley Media Studies Group  
Caring Across Generations  
Casa de Esperanza: National Latin@ Network  
Catholic Legal Immigration Network, Inc.  
Center for American Progress  
Center for Community Change  
Center for Law and Social Policy  
Center for Public Representation  
Center for Reproductive Rights  
Center for the Study of Social Policy  
Center on Budget and Policy Priorities  
CenterLink: The Community of LGBT Centers  
Children's HealthWatch  
Children's Rights, Inc.  
Chinese American Planning Council  
Coalition on Human Needs  
Community Catalyst  
Community Health Systems, Inc.  
Don't Separate Families  
Fair Immigration Reform Movement  
Families Belong Together / Familias Unidas, No Divididas  
Families USA  
First Focus  
Food Research and Action Center  
Friends Committee on National Legislation  
Hand in Hand: The Domestic Employers Network  
Health Care for America Now Education Fund  
Heartland Alliance for Human Needs & Human Rights  
Hispanic Federation  
Human Impact Partners  
Human Rights Watch  
Immigrant Legal Resource Center  
Immigration Equality  
Jobs with Justice  
Justice in Aging  
Kingdom Mission Society  
Leadership Conference on Civil and Human Rights  
MAZON: A Jewish Response to Hunger  
Mexican American Legal Defense and Educational Fund  
MomsRising  
National Asian Pacific American Families Against Substance Abuse  
National Asian Pacific American Women's Forum  
National Association for the Education of Young Children  
National Association of County Human Services Administrators  
National Center For Law and Economic Justice  
National Coalition for Latinxs with Disabilities  
National Council for Behavioral Health  
National Council of Asian Pacific Islander Physicians  
National Domestic Workers Alliance  
National Education Association  
National Health Care for the Homeless Council  
National Health Law Program  
National Housing Law Project  
National Human Services Assembly  
National Immigrant Justice Center  
National Immigration Law Center  
National Institute for Reproductive Health  
National Latina Institute for Reproductive Health  
National Law Center on Homelessness & Poverty  
National LGBTQ Task Force  
National Network for Immigrant and Refugee Rights  
National WIC Association  
National Women's Law Center  
NETWORK, A National Catholic Social Justice Lobby  
Nextgen America  
Ounce of Prevention Fund  
Partnership for America's Children  
Planned Parenthood Federation of America & Planned Parenthood  
Action Fund  
Positive Women's Network - USA  
Prevention Institute  
Religious Action Center  
RESULTS  
Rooted in Rights  
Sargent Shriver National Center on Poverty Law  
Service Employees International Union  
Southeast Asia Resource Action Center  
Southern Poverty Law Center  
The Black Alliance for Just Immigration  
The Children's Partnership  
The Indivisible Project  
Treatment Action Group  
T'ruah: The Rabbinic Call for Human Rights  
UndocuBlack Network  
UnidosUS  
United Church of Christ  
United Parent Leaders Action Network  
United We Dream  
We Belong Together Campaign  
World Relief  
ZERO TO THREE

To join the Protecting Immigrant Families Campaign as an Active Member, please go to [bit.ly/PIFActivemember](https://bit.ly/PIFActivemember)

# Public Charge 101

October 17, 2018

Presented by:  
Madison Hardee & Sonya Schwartz

**CLASP**

Policy Solutions That Work For Low-Income People





# The Protecting Immigrant Families Advancing Our Future Campaign

Created in 2017 and  
Co-Chaired by:

## CLASP

Policy Solutions That Work For Low-Income People



**Purpose:** Unite 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.

- Nearly 250 Active Member Organizations
- 5 Working Groups: Communications, Federal Advocacy, Field, Policy & Legal Analysis, Research
- [Click here](#) to see PIF Campaign overview

# Questions we will address

- **What's the status of changes to public charge policy?**
- **What does this policy look like today?**
- **What has already changed?**
- **What would change under the draft proposed regulation?**
- **How should we talk about public charge?**
  - With the public?
  - With immigrant families?
- **How can we fight these changes?**

# Public Charge: What's happened?

**February 2017**

Draft Executive Order leaked – never issued

**January 2018**

Changes made to Foreign Affairs Manual

**Feb-March 2018**

Draft rule leaks

**Sept 22 2018**

Text of NPRM released on DHS website

**Oct 5 2018**

NPRM posted for Public Inspection on Federal Register

**Oct 10 2018**

NPRM published in Federal Register. 60 day comment period begins

# What does public charge policy look like today?

# Current public charge test

## Definition

A person who is considered “likely to become primarily dependent on the government for subsistence.”

## Benefits Considered

Only two types of benefits considered:

1. **Cash** assistance for income maintenance
2. Institutionalization for **long-term care** at government expense

# Current public charge test

## Totality of Circumstances Considered

- ✓ Age
- ✓ Health
- ✓ Family status
- ✓ Financial status
- ✓ Education and skills
- ✓ Affidavit of support



**Forward looking test:** Is the person likely to rely on cash or long-term care in the future? No one factor (including past use of cash benefits) is dispositive. Positive factors can be weighed against negative factors.



# When does the public charge test come up?

## A public charge assessment is made when a person:

- Applies to enter the U.S.
- Applies to adjust status to become a Lawful Permanent Resident (LPR)
- A green card holder leaves the U.S. for more than 180 consecutive days (6 months) and reenters

# Who is exempt from public charge determination?

## Public charge does NOT apply to:

- Lawful Permanent Residents applying for citizenship
- Refugees and Asylees
- VAWA self-petitioners
- Survivors of Domestic Violence, Trafficking, or other Serious Crimes (Applicants/ recipients of U or T visa)
- Special Immigrant Juveniles
- Certain Parolees, and several other categories of non-citizens

# Public charge changes in the Foreign Affairs Manual

# Foreign Affairs Manual

Officials in U.S. consulates abroad use the Department of State's FAM to make decisions about whether to grant permission to enter the U.S.



# Foreign Affairs Manual Changes

- **Revisions to FAM instructions** (Jan. 2018). Public charge definition not changed, but:
  - Affidavit of support no longer sufficient
  - Look to applicant's age, health, family status, financial resources, skills. "Totality of circumstances" test now considers:
    - Use of non-cash benefits
    - Benefits used by sponsors or family members
- **NOTE: Only affects decisions made by consular officials abroad**

# Foreign Affairs Manual Changes

- **Impact so far?**
  - Reports of denials or requests for additional evidence
  - More scrutiny of affidavits of support by joint sponsors
  - More questions about employment/income, family members with disabilities
- **But**
  - Forms have NOT changed
  - Consular officers still have discretion – practice varies
  - FAM could be revised again
- **We are monitoring this – please let us know what you hear!**

# How would the public charge test change under the proposed regulation?

# Changes in proposed regulation

1

New definition of “public charge”

2

Totality of circumstances test has new detailed negative factors that make it harder for low and moderate income people to pass

3

Additional public benefits included



# Definition of public charge

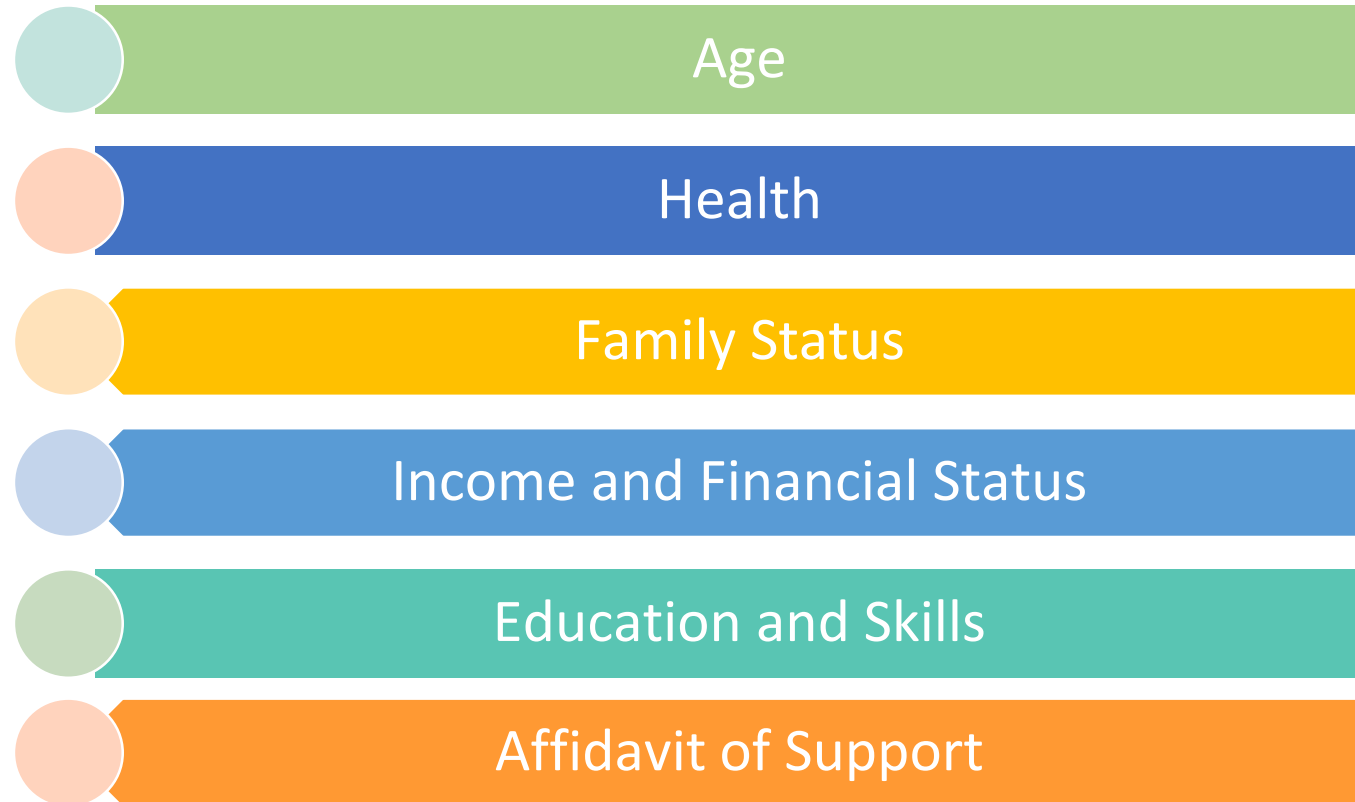
## Currently

An immigrant “likely to become primarily dependent on the government for subsistence”

## As Proposed

An immigrant “who receives one or more public benefits”

# Totality of Circumstances Test: Factors



# Totality of Circumstances Test: Age

**Positive Factor**

**Negative Factor**

Age 18 to 60

TOO OLD  
(Age 61 or Older)

TOO YOUNG  
(Younger than 18)

# Totality of Circumstances Test: Health

**Positive Factor**

**Negative Factor**

Perfect Health

Diagnosed with a  
medical condition

Condition will interfere  
with ability to attend  
school or work

# Totality of Circumstances Test: Family Status

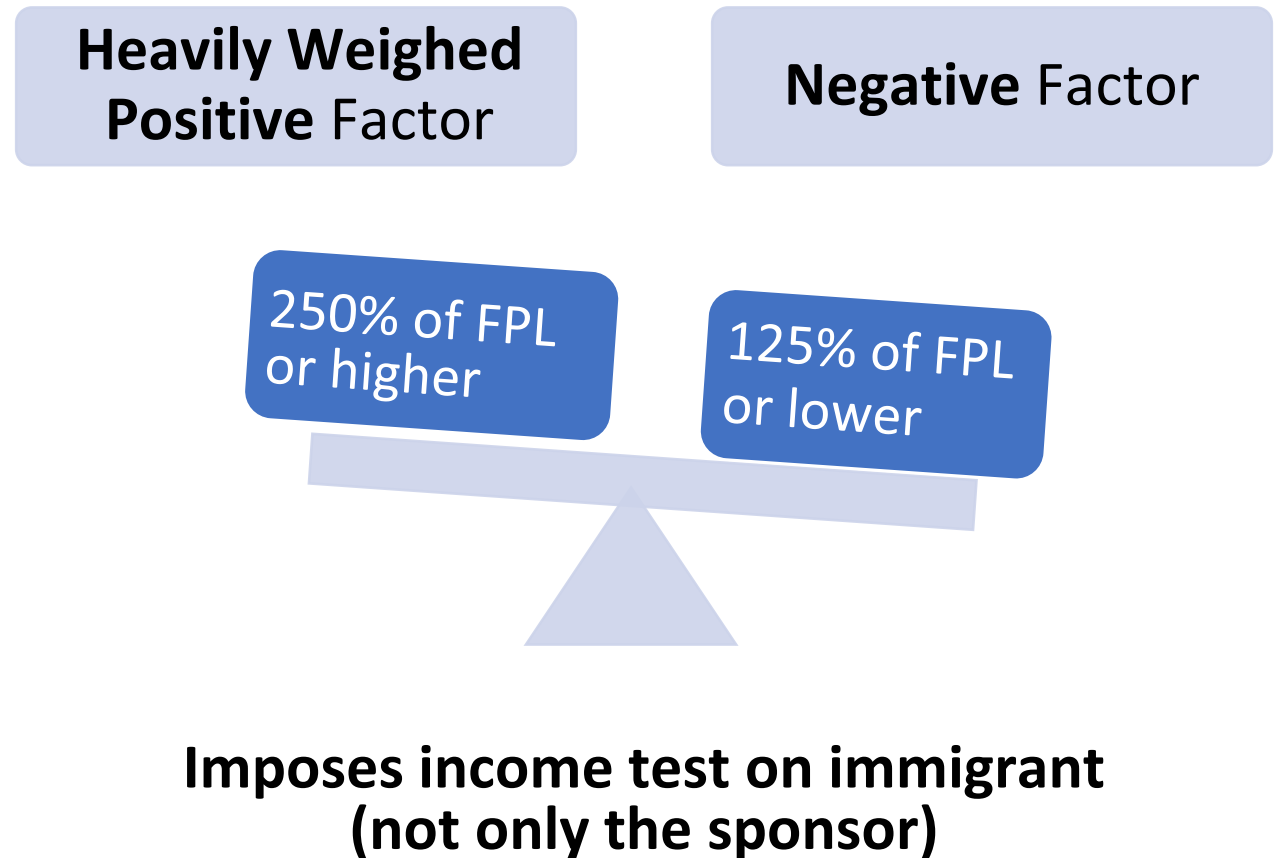
- Receipt of benefits by dependents (including U.S. citizen children) will not directly be a factor in applicant's public charge test.
- If a child or family member is an immigrant, his/her own use of benefits counts toward his/her own public charge determination.
- Dependents are included in the calculation of household size and may make it harder for immigrants to meet the income test.



# Totality of Circumstances Test: Income

## The government can consider

- ✓ Income of people in household
- ✓ Assets in cash or savings account
- ✓ Application for fee waiver (for immigration benefits)
- ✓ Credit history or credit score
- ✓ Enrollment in private insurance or \$ to pay for extensive medical treatment or institutionalization



# Totality of Circumstances Test: Education and Skills

**Positive Factor**

**Negative Factor**

Higher degree and/or  
skills, certification, license

Fluent in English

No high school degree  
(or equivalent)

Not proficient in  
English

# **Totality of Circumstances Test: Affidavit of Support**

## **Current Policy**

Government looks to Affidavit of Support from sponsor and joint sponsor if individual's income is not 125% of FPL or above

## **Proposed Policy**

Affidavit of support is a positive factor, but not heavily weighed. Government considers:

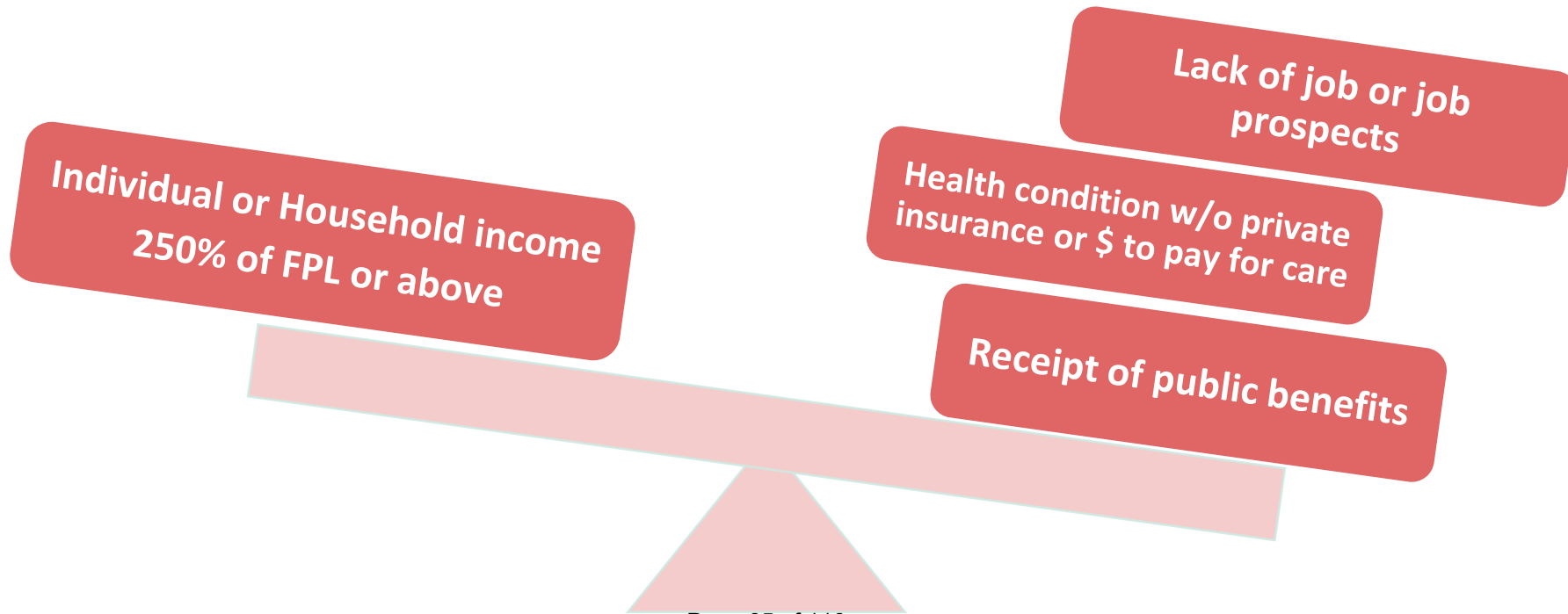
- Sponsor's financial status
- Relationship to applicant and whether living together
- Likelihood sponsor would actually provide financial support



# **Totality of Circumstances Test: Heavily Weighed Factors**

**Heavily Weighed  
Positive Factor**

**Heavily Weighed  
Negative Factors**



# Changes are not retroactive

Under NPRM, benefits:

- Received before the proposed rule is finalized
- That are currently excluded from the public charge test  
*(Anything other than cash or long term care)*

**Will not** be considered in the public charge determination

# Public benefits included in NPRM

**\*Cash Support for Income Maintenance**

**\*Long Term Institutional Care at Government Expense**

**\*\*Most Medicaid Programs**

**Supplemental Nutrition Assistance Program (SNAP or Food Stamps)**

**Medicare Part D Low Income Subsidy**

**Housing Assistance (Public Housing or Section 8 Housing Vouchers and Rental Assistance)**

\* Included under current policy as well

\*\* Exceptions for emergency Medicaid & certain disability services offered in school. DHS is asking for input on inclusion of CHIP, but the program is not included in the regulatory text

# Public benefits not included

Any benefit not *specifically listed* in the regulation is NOT included

- Benefits received by immigrant's family members
- Disaster relief
- Emergency medical assistance
- Entirely state local or tribal programs (other than cash assistance)
- CHIP\* (*DHS requests input on inclusion of CHIP, but not included in regulatory text*)
- Women Infants and Children (WIC)
- School Breakfast and Lunch
- Energy Assistance (LIHEAP)
- Transportation vouchers or non cash transportation services
- Non-cash TANF benefits
- Federal Earned Income Tax Credit and Child Tax Credit
- Student Loans

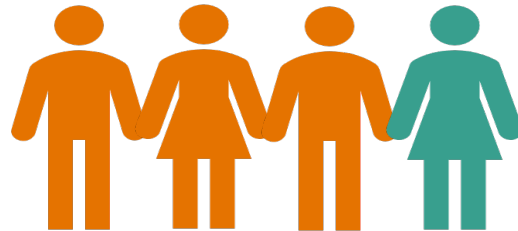
# Who would the proposed regulation harm?

# Impacts of the proposed regulation

## Who might be impacted?

As many as **26 million** people in families with immigrants might be chilled from participating in programs that make their families healthier and stronger.<sup>1</sup>

**1 in 4 children have an immigrant parent**



**Source**<sup>1</sup> “Public Charge Proposed Rule: Implications for Non-Citizens and Citizen Family Members Data Dashboard,” Manatt Health, October 2018

**Source:** Samantha Artiga and Anthony Damico “Nearly 20 Million Children Live in Immigrant Families that Could Be Affected by Evolving Immigration Policies” Kaiser Family Foundation, 2018

# Impacts of the proposed regulation

## Impacts by race and ethnicity

- **18.3 million LATINOS**
  - > 33.4% of all LATINOS
- **3.2 million ASIAN/API**
  - > 17.4% of all ASIAN/API
- **1.8 million BLACK & AFRICAN**
  - > 4% of all BLACK & AFRICAN
- **2.5 million WHITES**
  - > 1% of all WHITES



# Summary: Why the proposed policy is a radical change

## Definition Change

Definition would change from someone who relies on government for main source of support to someone who participates in a health, nutrition or housing benefit to support work.

## More Factors Considered

Totality of circumstances test has new detailed factors that make it harder for low and moderate income people to pass. Immigrants can fail the test if they are low income, don't speak English well, have a medical condition.

## Additional Benefits

Additional benefits included in the test: Medicaid, SNAP, Housing assistance, Medicare Part D low-income subsidy



- From Nicaragua
- TPS since 2001 but TPS is ending January 2019
- Pregnant and enrolled in Medicaid in Ohio
- Husband wants to sponsor her for a green card
- Clara is afraid that Medicaid during pregnancy will cause a problem



# Clara under the proposed regulation



**Positive Factor**

**Negative Factors**

Age

Receipt of Medicaid  
(after final rule, if >12  
months)

Income

# Kareena

- From India
- Living in the US as a green card holder for 12 years
- Her son petitioned for her and lives with her son and grandson
- 72 and retired from job as cashier
- Receives Medicare and extra help through Low-Income Subsidy Program for prescriptions
- Wants to return India to visit her sister who is ill -- **but**, worried that if she leaves the US, she can't return

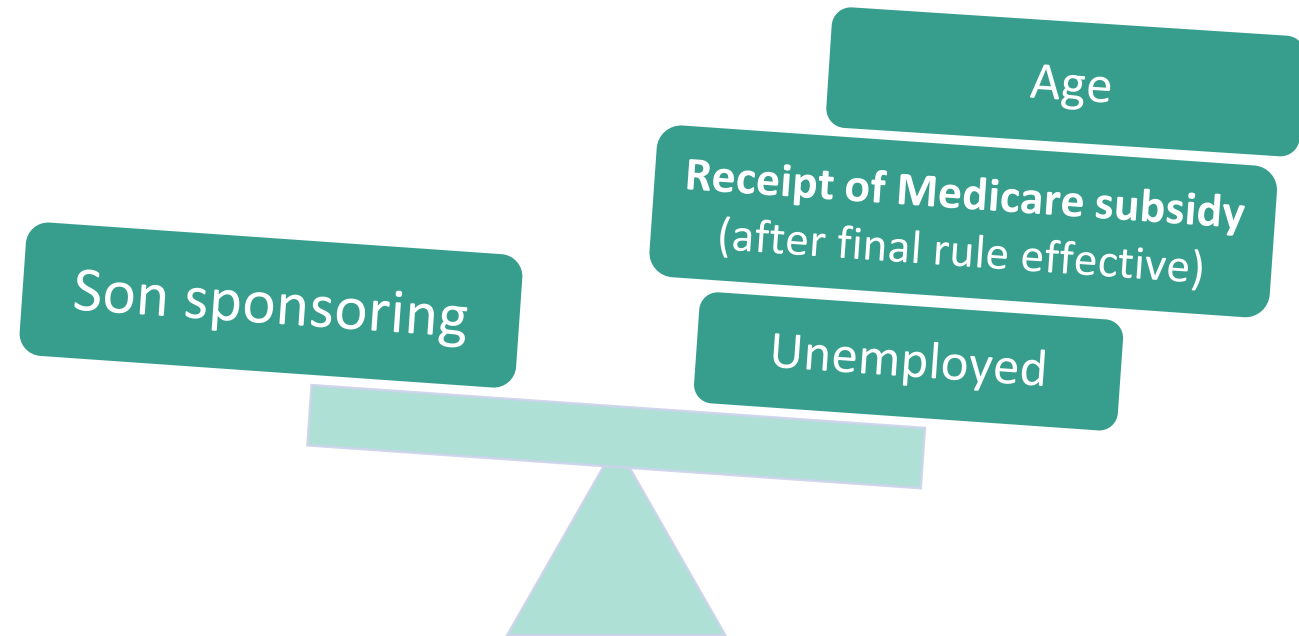


# Clara under the proposed regulation



**Positive Factor**

**Negative Factors**



## Keep in Mind

- The existing 1999 public charge guidance is still in place until a new rule is finalized.
- The final regulation could look different from the proposed regulation.
- The proposed regulation may never be finalized.

# **How should we talk about this issue? What is it really about?**

# Key public messages

## MESSAGE MUST HAVES:

- **Start with a shared value:** How you live your life and contribute to your community should define you in this country, not how you look or how much money you have.
- **Explain how Trump's proposed regulation is an affront to those values.** This regulation puts the wealthy ahead of families who've waited years to be reunited.
- **Call for people to speak out and fight back.** People can share their stories and spread the word. And when the time comes, people should send a comment!

# Messaging Toplines

- **Hurts children, families, communities, our health, our future**
  - No way to hurt parents without hurting children
  - We are all healthier and stronger when families are healthy and strong
- **An America only for the rich**
  - Wealthy-only policy
  - Green cards to the highest bidder
- **A new family separation policy**
  - We value families, and families should be able to stay together
- **Radical change through the back-door of our family-based immigration system**
  - Presidential overreach and end-run around Congress
- **Continues ugly history of discrimination against immigrants**
  - We've seen abuses like this before in our history — whether it was turning away Jews fleeing the Holocaust, excluding Chinese and Asian immigrants, or discriminating against Catholics from Ireland and Italy.



# Values messaging examples



“This disruption of family unity comes mere months after the same government agency pursued a policy of forcibly separating immigrant parents and children at the border, many of whom remain separated today. Pediatricians will oppose any proposal that puts children's health at risk, and we will continue to speak out to ensure that all children, no matter where they or their parents were born, can be healthy and safe.”

“This harsh and misguided policy goes against our basic values as a nation. It would not only set us back decades by undermining progress made in building healthier communities, it would put our friends, family and neighbors in harm's way.”

American  
Academy of  
Pediatrics



# Values messaging examples

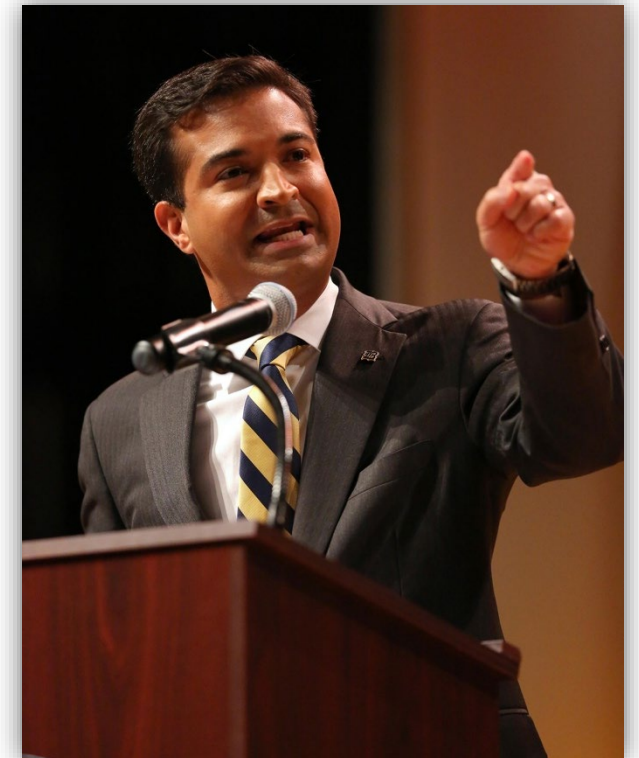


“You don’t kick the cane away from a person and criticize them for not standing. But that’s what this rule is doing.”

- Rep. Chu (D-CA)

“Our immigration laws and rules should be designed to attract and welcome those who are willing and able to contribute to our country, but this proposal will make it more difficult for the spouses and children of U.S. citizens to obtain green cards,”

- Rep. Curbelo (R-FL)



**How can you talk to immigrant families about this?**

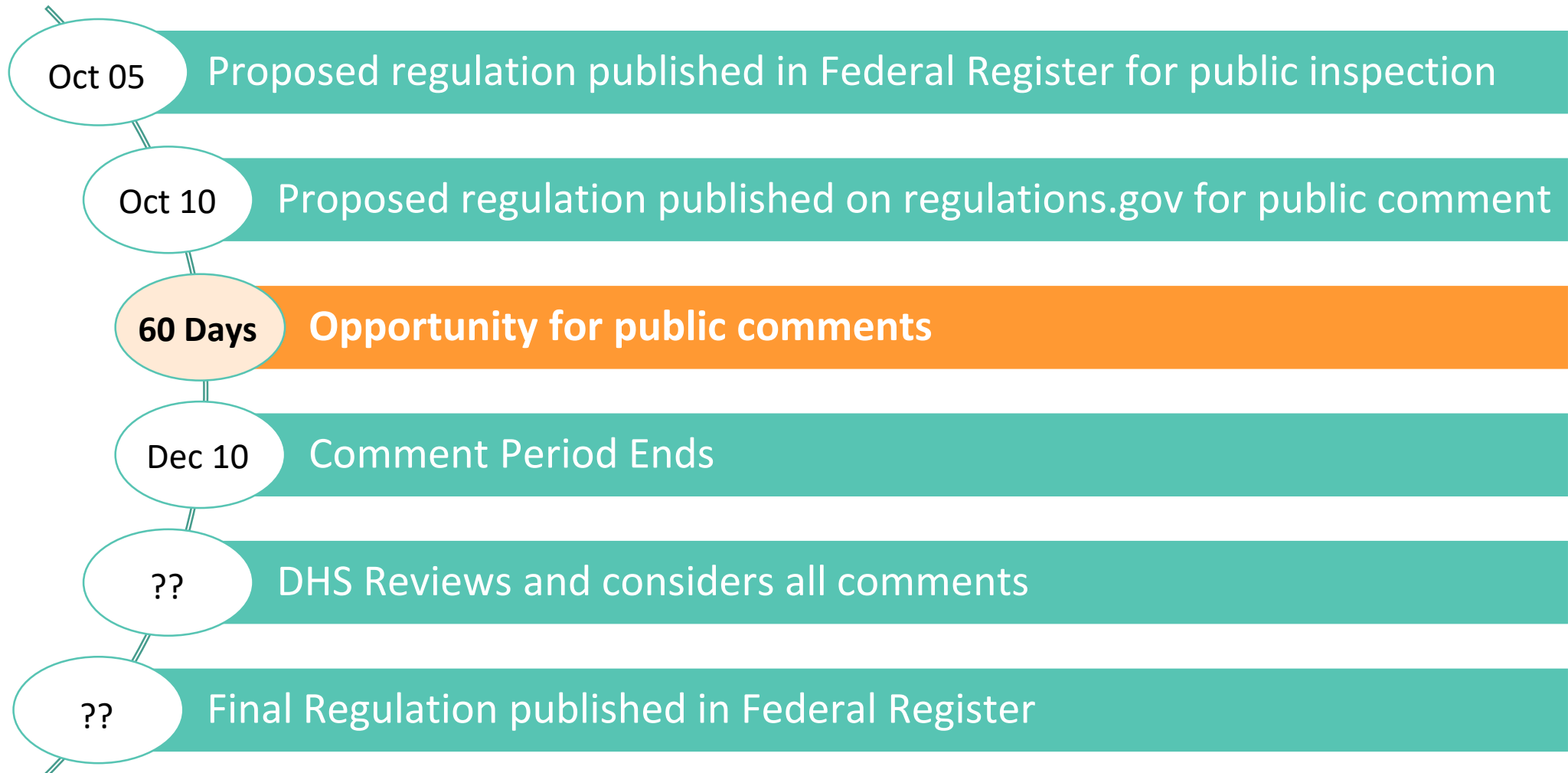
# How can you talk to immigrant families about this?

1. The public charge rules **in the US** have not yet changed
2. The proposed regulation would not consider any newly listed benefits before it is final
3. The regulation does not apply to all immigrants
4. The privacy of your personal information is protected by law
5. You are not alone, and you can fight back!

For more information on talking with immigrant families about public charge, check out this [FACT SHEET](#)

# How can you fight back?

# Rulemaking process



# Help us reach 100,000 comments by December 10

## High Quality Organizational Comments

- **Who?**
  - Nonprofits, direct service providers, local, state and national elected officials
- **What to say?**
  - Model comment and Templates for 40+ sectors available soon
- **Where to submit?**
  - [Federal Comment Portal](#) on Regulations.gov
- **When?**
  - Draft now and wait until second half of comment period to submit

## High Quantity Individual Comments

- **Who?**
  - You and your colleagues and friends and family
- **What to say?**
  - Text to edit on websites with a few clicks.
- **Where to submit?**
  - [ProtectingImmigrantFamilies.org](#)
  - Other microsites available too!
- **When?**
  - Starting now and every day until December 10

# Comment best practices

- **Do write comments in your own words!**
  - Templates are fine -- but we strongly encourage you to edit them!
  - Reflect your own thoughts and experiences
  - Explain why this matters to YOU and/or YOUR organization
- **Don't suggest corrective language.** We do not recommend suggesting ways that the agency can “fix” the proposed language.
- **Don't discuss programs that aren't specifically included in the NPRM**
- **Do oppose the expansion of the rule to include *any additional programs***, not just the program that matters most to you.

For more comment FAQs, check out this [FACT SHEET](#)



# What else can you do?

Join the  
Campaign

[bit.ly/PIFActivemember](https://bit.ly/PIFActivemember)

Share a  
Story

[bit.ly/PIFstory](https://bit.ly/PIFstory)

Speak Up

[#ProtectFamilies](https://twitter.com/ProtectFamilies)

# Have questions?

Please submit your questions in our  
FAQ Form [bit.ly/askPIFcampaign](https://bit.ly/askPIFcampaign)

**Someone from the campaign  
will respond to you as soon as possible.**

## **Will the rule affect green card holders when they renew their cards?**

A person's lawful permanent residence does not expire when the green card expires. Since there is no new admissions test when a person renews their green card, the public charge ground of inadmissibility would not apply at that stage.

## **How will the rule affect individuals with disabilities?**

DHS would negatively consider applicants that have physical or mental health conditions that could affect their ability to work, attend school or care for themselves.

## Are educational programs included?

No. Non-cash benefits that provide education, child development, and employment and job training are excluded from the public charge determination under current law and in the proposed rule.

## Will people be deported if they become a public charge?

In extremely rare circumstances, a person who has become a public charge can be deported. The proposed rule does not interpret or expand the public charge ground of deportability. Parallel rulemaking by the Department of Justice is possible.

## How would the different income status pieces of the regulation work?

- People earning under 125% FPL percent of the poverty line (\$31,375 annually for a family of 4) would be weighed negatively.
- Earning over 250% of the poverty line (\$62,750 annually for a family of 4) would be a heavily weighed positive factor.
- Public charge remains a totality of circumstances test. Household income carries weight but will not necessarily be single deciding factor.

## Who will be making the judgement whether someone is going to be a public charge?

- If applying to enter the US from abroad, consular officials make the PC determination based on criteria in the Foreign Affairs Manual (FAM).
- If applying for a green card in the U.S., USCIS staff make the PC determination based on criteria in the statute, any implementing regulations and field guidance. Note: some people need to leave the U.S. and go through consular processing.

# Solano County Board of Supervisors

Erin Hannigan ..... District 1  
Monica Brown ..... District 2  
James P. Spering ..... District 3  
John M. Vasquez ..... District 4  
Skip Thomson ..... District 5

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Washington, DC 20002  
~~<http://www.watermandc.com/>~~ ~~<http://paragonlobbying.com/>~~

## SOLANO COUNTY ~~2018-2019~~ FEDERAL LEGISLATIVE PROGRAM

Here in Solano County we take seriously our role in local government to create a bright and promising future for everyone who lives, learns, works and plays here – free of discrimination – by establishing and maintaining the social, economic and physical environments that promote good health while protecting vulnerable populations - giving everyone the chance to succeed. Our residents share in this promise, and, by working together, we endeavor to establish communities where people are safer, families are stronger and local economies thrive. By acknowledging the significant contributions of diverse groups of people – both present and in the past – we welcome a future that is bright and promising, while embracing a set of values that gives everyone the chance to be the best versions of themselves they can possibly be. To this end, all persons within Solano County are free and equal, and shall not be discriminated against based on their age, gender, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sexual orientation, gender identity, primary language, citizenship, or immigration status. [\(H&SS - Wallace Pearce, Senior Coalition Executive Committee\)](#)

### PRIORITY ISSUES

The ability of the County to serve its residents and provide for a thriving and sustainable community requires support from all levels of government. Federal legislative policy and funding decisions affect the County's ability to deliver services. In order to fulfill the County's commitment to the community, Federal resources should be sought to support the County's mission to enrich the quality of life in the County. To this end, the County Board of Supervisors supports the priorities and the legislative principles set forth below.

Priority issues are those that have a significant impact on County business and on which County staff, including the County's Federal legislative advocates, will concentrate their legislative efforts during the 2018 Legislative Session. The County's top priorities (Listed Alphabetically) include:

1. **Funding for Key Water Infrastructure Projects** - Support efforts to authorize and fund key water infrastructure projects in Solano County, including dredging, water reuse and recycling, and flood control projects.
2. **Health and Human Services** - Support increased federal funding for services and income support needed by parents seeking to reunify with children who are in foster care. Support increased financial support for programs that assist foster youth in the transition to self-sufficiency, including post-emancipation assistance such as secondary education, job training, and access to health care. Support retaining the entitlement nature of the Title IV-E Foster Care and Adoption Assistance programs and elimination of outdated rules that base the child's eligibility for funds on parental income and circumstances. Support federal funding to address the service needs of youth who are victims of commercial sexual exploitation. Support reauthorization of the Temporary Assistance for Needy Families (TANF) program with a particular emphasis on restoring state and county flexibility to tailor work and family stabilization activities to families' individual needs. Support ongoing Social Security benefits. Support federal Medicaid funding to be enhanced for individuals placed in Institutions for Mental Disease (IMDs). [Support increased federal funding for the Older Americans Act and for programs and initiatives that enhance sustenance of independent living for disabled and senior adults.](#) [\(H&SS - Wallace Pearce, Senior Coalition Executive Committee\)](#)
3. **Housing, Economic Development, and Transportation Programs** - Support the highest possible funding level for key federal housing and economic development programs. Support efforts to restore and revitalize property impacted by prior realignment or closure of military installations. In the area of transportation, support efforts to protect the Highway Trust Fund and support programs that provide funding for local roads, bridges, transit initiatives, and aviation. Support enhanced federal funding to address issues of homelessness, [including homelessness and imminent homelessness among disabled and senior adults](#), in our country. [\(H&SS - Wallace Pearce, Senior Coalition Executive Committee\)](#)



4. **Military Presence** - Support efforts to protect Travis Air Force Base from budget reductions, downsizing, as well as advocate for new and/or alternative missions to be directed to the base. Support additional assets/missions such as C-17, KC-46 squadrons, modernization of existing aircraft, and gaining other aviation and non-aviation missions. Support infrastructure investments, including military construction projects and housing upgrades and enhance use of underutilized property on base. Support efforts to implement and maintain public-public/public-private partnerships with Travis Air Force Base and other community organizations/agencies. Support funding for the maintenance, operations, and upkeep of federal facilities and infrastructure following the close of a military installation. (District 2)
5. **Public Safety and Emergency Preparedness** - Support funding for programs that assist Solano County with efforts aimed at reducing crime and enhancing public safety through community partnerships and multi-jurisdictional efforts. In addition, support funding for programs that assist the County with disaster response and preparedness and homeland security-related needs, including efforts aimed at achieving communications interoperability.
6. **Sacramento-San Joaquin Delta and Suisun Marsh** - Support legislative and administrative efforts to protect the Sacramento-San Joaquin Delta and the County's interests relative to land use, agricultural stability, economic development, police or emergency response mandates, environmental preservation, flood protection, levee stability, habitat conservation, recreation, water supply, water quality, water rights, and dredging activities. Support governance structures that give local government a strong and equal voice with other stakeholders in setting Delta policy.

Furthermore, the Board of Supervisors adopts the following principles (Listed Alphabetically by Policy Area):

### Agriculture, Natural Resources, and Water

**Solano County supports federal legislative and regulatory actions that protect and enhance the County's significant agricultural, water, and natural resources. The County opposes any efforts to cut funding streams for critically important federal resource programs. Specific principles include:**

1. Support efforts to strengthen inspections at borders and ports of entry to safeguard against invasive pests and diseases.
2. Support funding for USDA's Plant Pest and Disease Management and Disaster Prevention Program and similar efforts to eradicate invasive pests; support increases for specialty crop support and the entitlement nature of the Supplemental Nutrition Assistance Program (SNAP).
3. Support efforts to facilitate/expedite inspection of US Postal packages profiled by detector dogs to contain fruit or plant material.
4. Support legislation to indemnify growers for losses due to Plant Quarantine.
5. Support legislation reducing redundant enforcement of aquatic herbicide/pesticide use under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Clean Water Act.
6. Support a more equitable distribution of USDA funds for Wildlife Services provided to California counties.
7. Support efforts to protect the County's Farm Gate, including, but not limited to, full mitigation of agricultural and other economic impacts associated with habitat restoration efforts.
8. Support funding for local mapping of flood hazard areas and advocate for the US Army Corps of Engineers and other federal agencies to protect the County from these hazards.
9. Support legislation to ~~establish~~protect the Sacramento-San Joaquin Delta, establish a Delta National Heritage Area and to protect and promote the economic vitality and cultural, historical, and natural assets of the region. (Resource Management)
10. Oppose efforts to provide federal funding – either through direct appropriations or indirect federal financing support mechanisms – for the California WaterFix project or similar water diversion project.

### General Government

**Solano County supports federal legislative and regulatory actions that protect and enhance the general welfare and quality of life of the County's residents. The County opposes unfunded Federal mandates and Federal actions that would preempt local decision-making authority. Specific principles include:**

1. Support efforts to realign government services with necessary funding in order to improve the delivery of services, including technology acquisitions, training, and upgrades.
2. Support efforts that protect and/or enhance local governments' revenues, maximize the County's access to Federal funding sources, and/or increases local funding flexibility.

### **General Government (Continued)**

3. Support legislation that provides tax and funding formulas and regulations for the equitable distribution of Federal monies while opposing attempts to decrease, restrict, or eliminate County revenue sources.
4. Support funding for domestic infrastructure, public safety, community development, and environmental programs.
5. Support any expansion, continuation, and/or increased flexibility in the bidding/procurement, delivery, and management of construction projects.
6. Support legislation that provides grants and funding programs for the preservation, rehabilitation, and maintenance of historically and/or architecturally significant buildings and structures.
7. Support funding for the Payment-in-Lieu-of-Taxes (PILT) program.
8. Support legislation and the California State Association of Counties (CSAC) efforts to influence reform of the U. S. Department of the Interior's fee-to-trust process.
9. Support efforts to enact legislation and regulations to require the Bureau of Indian Affairs (BIA) to provide public notice to tribal, city and county governments whenever a tribe requests a restored lands determination or submits a fee-to-trust application.
10. Support funding and regulatory efforts to expand broadband services to all County residents.

### **Health and Human Services**

**Solano County supports federal legislative and regulatory actions that promote the health and welfare of the County's most vulnerable residents, including children, the disabled and seniors. The County opposes any efforts to cut funding streams for critically important health and human services-related programs, such as Medicaid, ~~and~~ Medicare, Supplemental Security Income (SSI), and the State Supplementary Program for the Aged, Blind and Disabled (SSP), and opposes efforts to reduce local flexibility in the implementation of such programs. Specific principles include: (H&SS - Wallace Pearce, Senior Coalition Executive Committee)**

1. Support reauthorization of TANF with a primary focus on restoring state and county administrative flexibility.
2. Support increased funding for the Prevention and Public Health Fund (PPHF), the Maternal, Infant, and Early Childhood Home Visiting Program, the Substance Abuse and Mental Health Services Administration (SAMHSA), the Community Mental Health Services (CMHS), the Substance Abuse Prevention and Treatment (SAPT) Block Grants, the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), Supplemental Nutrition Assistance Program—Education (SNAP-Ed), and the Title IV-D Child Support program. Emphasis should be placed on the need to provide funding for streamlined and coordinated operations.
3. Support eliminating the Federal health benefits "inmate exception" for persons in County jails and detention centers who are in custody pending disposition of charges.
4. Support eliminating the cutoff of funding for individuals that are incarcerated but not convicted, as the cost of medical care for these inmates' defaults to the County.
5. Support efforts to ensure competitive equity for suburban areas (on par with urban and rural areas) for Federal grant opportunities.
6. Support funding for subsidized child care services and child development programs, including school readiness for all children.

7. Support funding for programs and activities that support the special needs of elderly and persons with disabilities, including increases to Supplemental Security Income (SSI); support reauthorization of, and increased funding for, the Older Americans Act, with considerations given to caseload growth, cost-of-living adjustments and equitable distribution of funds to those areas with larger senior populations. (H&SS - Wallace Pearce, Senior Coalition Executive Committee)
8. Support legislation that would provide a comprehensive response to elder abuse, neglect and exploitation, including fully funded, mandated investigations of reports of elder abuse and neglect in facilities by Long-Term Care Ombudsmen. (H&SS - Wallace Pearce, Senior Coalition Executive Committee)
- ~~8.9.~~ Support efforts to allow for utilizing billing codes for brief intervention services for alcohol and drugs and for two different services on the same day in a Federally Qualified Health Center (FQHC).
- ~~9.10.~~ Support legislation that increases taxes on combustible tobacco products, tobacco-based inhalation devices, and electronic cigarettes, and uses the revenue for children and family programs, including smoking cessation programs.
- ~~10.11.~~ Support legislation that requires specific bills to undergo a health impact assessment of current and predicted effects, possibly completed by a nonpartisan body.

### Health and Human Services (Continued)

- ~~11.12.~~ Support all health equity efforts at various institutional and sectorial levels, and ensuring a broader equity strategy within institutions and sectors. Applying metrics to identify equity gaps and measuring gains in intervention areas is a key priority.
- ~~12.13.~~ Expand the current list of billable medical expenses to include valuable services (Promotoras, chronic disease self-management programs, healthy food purchasing, etc.) which are part of a broader menu of efforts to combat chronic disease.
- ~~13.14.~~ Support efforts to reduce intake of high fat, sugar, sodium foods and beverages which may contribute to higher risk for developing specific chronic diseases, and to regulate the distribution and sale of powdered alcohol.
- ~~14.15.~~ Support policy for evidenced-based home visiting services as a preventive service, therefore eligible for Medi-Cal reimbursement such as California’s Medicaid 1115 Waiver.
- ~~15.16.~~ Support legislation and efforts to promote and implement “whole person care” and to address social determinants of health.
- ~~16.17.~~ Support legislation and efforts to solidify and expand healthcare coverage and insurance implemented with the Affordable Care Act. Support federal funding to increase access to health care to address issues of worker shortage within the healthcare field. Support federal funding for administration of the Medi-Cal program.
- ~~17.18.~~ If repealed, support a comprehensive Affordable Care Act replacement that ensures market and delivery system stability and continued coverage for more than 14 million Californians.
- ~~18.19.~~ Support legislation that supports retaining and establishing grocery stores, farmers’ markets and other healthy food providers often lacking in impoverished communities and accept electronic benefit transfer (EBT).
- ~~19.20.~~ Support additional federal resources to establish and maintain robust outreach and enrollment programs for seniors eligible for the Supplemental Nutrition Assistance Program (SNAP/Cal Fresh). Additionally, support programs to supplement the food and nutrition needs of seniors who may not have the resources to access or prepare food due to lack of transportation, functional limitations, or health problems.
- ~~20.21.~~ Support legislation to add e-cigarettes, menthol and smokeless tobacco products containing nicotine to the list of tobacco related products to be regulated by the U.S. Food and Drug Administration.

### Housing, Community and Economic Development, and Workforce Investment

**Solano County supports federal legislative and regulatory actions that promote local housing and community development programs and activities, workforce development programs, and programs aimed at encouraging local job and business growth. The County opposes efforts to cut funding for these critically important**

**programs, as well as efforts to restrict local flexibility in the administration of such programs. Specific principles include:**

1. Support increased funding for existing programs including the Community Development Block Grant (CDBG), the HOME Investment Partnerships Program (HOME), the Neighborhood Stabilization Program (NSP), and Housing and Urban Development (HUD) Section 8, permanent, transitional housing, and Rental Assistance Programs, and HUD Section 202 funding for supportive housing for the elderly.
2. Support legislation that enhances a public/private, performance-driven block grant program that provides investments in the nation's workforce, including the unemployed and those in need of skills training.
3. Support or seek federal grant funding opportunities that advance and improve housing, community and economic development, and workforce investment opportunities and legislative principles for **disadvantages disadvantaged** individuals and families including the homeless, **disabled and seniors**. (H&SS - Wallace Pearce, Senior Coalition Executive Committee)
4. Support efforts to connect health care and housing options for elderly and persons with disabilities to ensure Affordable Care Act home and community based services are effective.
5. Oppose efforts to reduce U.S. Economic Development Administration (EDA) funds and support expanded eligibility and access to these funds.

### **Public Safety and Emergency Disaster Preparedness**

**Solano County supports federal legislative and regulatory actions that promote funding for key justice, public safety, and emergency preparedness programs. The County opposes efforts to cut funding for such programs, as well as efforts to restrict local flexibility in program administration. Specific principles include:**

1. Support funding for the Byrne Justice Assistance Grant (Byrne/JAG) Program, the Community Oriented Policing Services (COPS) program, the State Criminal Alien Assistance Program (SCAAP), the Juvenile Accountability Block Grant (JABG), and Title IV-E Juvenile Probation Services funding.
2. Support funding for emergency disaster preparedness programs, such as FEMA - Emergency Management Performance Grants (EMPG), the Urban Areas Security Initiative (UASI), and emergency disaster preparedness and infrastructure damage recovery programs.
3. Support funding for prevention, intervention, victim support and services for families experiencing domestic violence, sexual assault, child abuse, dating violence, stalking, elder abuse and human trafficking.
4. Support funding for the prevention and enforcement of financial exploitation of vulnerable populations.
5. Support legislation to provide Federal offset to recover outstanding restitution ordered to the victims of crimes and other delinquent court ordered fines, penalty assessments, and fees associated with criminal or juvenile justice proceedings. Support new legislation that would increase the collection term from three years to between 10 and 20 years, thereby avoiding having to seek civil judgments against clients.
6. Support funding to implement supervision strategies and evidence-based practices that consider the treatment and service needs of targeted probationers such as sexual offenders, domestic violence offenders, and/or those with mental illness.
7. Support funding for flood protection and flood response, particularly as it pertains to areas where governmental and municipal buildings play a role in local emergency response.
8. Support efforts to extend high urban threat areas delineation to include rural locations and sensitive areas adjacent to rail.
9. Support legislation that improves the availability, affordability and coverage for earthquake and flood insurance.
10. Support efforts to enhance capacity of local emergency responders to respond to potential emergency events resulting from hazardous materials releases from rail cars.

### **Resource Management, Environmental Health, and Sustainability**

**Solano County supports federal legislative and regulatory actions that promote the environmental health and sustainability of the County, including funding for key programs. The County opposes efforts to cut funding**

**for such programs, as well as efforts to restrict local flexibility in program administration. Specific principles include:**

1. Support Federal funding for green road maintenance and other enhancements to the transportation network that reduce greenhouse gas emissions.
2. Support funding and incentives for smart growth and sustainable development.
3. Support measures that further the goals of the County's climate protection and sustainability efforts as referenced in the Board-adopted Climate Action Plan.
4. Support actions that improve environmental health regulatory program implementation, which improves the County's ability to provide a responsive, efficient and effective County Environmental Health program.
5. Support funding for County programs and projects that address sustainability issues such as air quality improvement, energy efficiency, water conservation, renewable energy, fuel efficiency, energy adequacy, and security while balancing the reduction of emissions with impacts on business.
6. Support legislation that modifies existing law to improve implementation of environmental health regulatory programs.
7. Support funding for implementation of environmental health programs such as food protection, recreational health, solid waste, liquid waste, water supply and hazardous materials programs.

### **Resource Management, Environmental Health, and Sustainability (Continued)**

8. Support legislation that reduces or simplifies reporting requirements for local environmental health programs to the state.
9. Oppose FEMA proposals to require local jurisdictions to purchase repetitive loss properties.
10. Support funding that improves land use planning for major economic drivers and infrastructure projects and flood risk reduction in the County. (Resource Management)
11. Support legislation that fosters, establishes or expands regional purchasing capabilities and inter-jurisdictional infrastructure development to achieve local environmental and sustainability goals/requirements.
- 11-12. Support legislative efforts to keep National Conservation Lands, monuments, wildlife refuges, and other recreation lands open in the County. (Resource Management)

### **Transportation**

**Solano County supports federal legislative and regulatory actions that promote and protect the transportation needs of our community. The County opposes efforts to cut funding for key transportation programs, as well as efforts to restrict local flexibility in the administration of such programs. Specific principles include:**

1. Support efforts to protect and increase funding for transportation programs and projects within the County.
2. Support a robust Federal transportation reauthorization measure that provides the highest possible funding level for key local transportation programs and projects, including local roads, bridges, and transit priorities.
3. Support consideration of an increase or the indexing of the Federal gasoline tax and alternative sources of funding.
4. Support continued funding of the FAA Airport Improvement Program (AIP) for airport capital improvement projects.
5. Support efforts to improve rail and rail car safety, including positive train control (PTC) technologies, for transportation of hazardous materials including crude oil.
6. Support implementation of Federal Highway Administration program allowing reciprocity between the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA).

### **Veterans and Veterans Affairs**

**Solano County supports federal legislative and regulatory actions that promote and protect the health and general welfare of veterans in our community. The County opposes efforts to cut funding for key veterans**

**programs, as well as efforts to restrict local flexibility in the administration of such programs. Specific principles include:**

1. Support efforts that provide enhanced benefits for veterans and active duty, reserve and National Guard members that are cost-neutral to counties, including expanded mental health services.
2. Support efforts that would provide increased access for County Veterans Service Offices (CVSO) to VA information systems for use in developing and monitoring claims submitted on behalf of veterans, including but not limited to the federal Public Assistance and Reporting Information System (PARIS).
3. Support efforts to create a federal/state/local government partnership to reduce the VA veteran's claims backlog and expand outreach services to veterans.
4. Support legislation that would make it a criminal offense to intentionally misdirect or mislead a veteran, or anyone acting on the veterans behalf, concerning benefits or entitlements.
5. Support efforts to expand/increase VA responsibility to educate veterans on their entitlements.
6. Support legislation that would establish priority enrollment and registration for veterans in community colleges, state colleges, and universities.
7. Support legislation and funding to improve existing and construct new local veteran's facilities.
8. Oppose legislative efforts to reduce, cap or otherwise negatively impact veterans, active duty, reserve and National Guard members' pay and compensation packages.
9. Support legislation that would eliminate the Means Test (Income limits) for veterans to qualify for VA medical care.

#### **Veterans and Veterans Affairs (Continued)**

10. Support legislation that would authorize VA pharmacies to honor prescriptions written by non-VA physicians.
11. Support legislation that would expand the eligibility criteria for VA Dental Services for veterans eligible for VA Healthcare.
12. Support legislation that would provide CVSO's to send veteran claims electronically to the Veteran's Administration using D to D technology and the County's Vet Pro platform.

#### **Other Agency Legislative Priorities**

1. Delta County Coalition - Support the principles developed collectively by the Delta Counties Coalition.
2. Solano Transportation Authority – Support the 2018-2019 federal legislative priorities and programs as outlined and adopted by the Solano Transportation Authority.
3. Travis Community Consortium – Support the mission of all military organizations located within the County. Support the 2018-2019 federal legislative priorities adopted by the Travis Community Consortium.

# Solano County Board of Supervisors

Erin Hannigan .....District 1  
Monica Brown .....District 2  
James P. Spering.....District 3  
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Here in Solano County we take seriously our role in local government to create a bright and promising future for everyone who lives, learns, works and plays here – free of discrimination – by establishing and maintaining the social, economic and physical environments that promote good health while protecting vulnerable populations - giving everyone the chance to succeed. Our residents share in this promise, and, by working together, we endeavor to establish communities where people are safer, families are stronger and local economies thrive. By acknowledging the significant contributions of diverse groups of people – both present and in the past – we welcome a future that is bright and promising, while embracing a set of values that gives everyone the chance to be the best versions of themselves they can possibly be. To that end, all persons within Solano County are free and equal, and shall not be discriminated against based on their gender, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sexual orientation, gender identity, primary language, citizenship, or immigration status.

### **PRIORITY ISSUES**

The ability of Solano County to serve its residents and provide for a thriving and sustainable community requires support from all levels of government. The State of California's (State) actions continue to greatly impact the County's ability to provide vital services to the public. To fulfill the County's commitment to the community, additional State resources should be sought to support the County's mission to enrich the quality of life locally. To this end, the County Board of Supervisors supports the priorities and the legislative principles set forth below.

Priority issues are those that have a significant impact on County business and on which County staff, including the County's State legislative advocates, will concentrate their legislative efforts during the 2018 Legislative Session. The County's top priorities (Listed Alphabetically) include:

1. **Affordable Care Implementation** – Support healthcare policy implementation efforts that do not have an adverse financial impact to the County. Examples of impacts may include unfunded or under-funded mandates, or reallocation of existing County funding that result in an increased General Fund obligation. Support ongoing and new efforts related to increasing the number of insured persons and to providing and expanding primary care services and public health prevention services and activities.
2. **Children, Youth, and Families** - Support legislation and budget efforts that support children, youth, and families, including restoring and expanding quality child care and preschool opportunities, increasing funding for homeless youth, promoting safety for all children, and supporting mental and developmental health prevention and early intervention activities. Advocate for dedicated funding streams for child abuse and youth violence prevention efforts. Collaborate with state regional offices, schools and health care systems to expand resources for parents with special needs children.
3. **County Revenue Sources and Authority** - Oppose efforts to decrease, restrict, eliminate, seize, divert, supplant or otherwise restrict local autonomy, including local revenues. Oppose any efforts at the state level to eliminate, restrict, or redirect revenues currently dedicated to local government for state purposes to other agencies and/or districts. Advocate for timely, full state funding for state programs operated by the County, which include appropriate cost of living increases, as well as costs associated with increases in population and caseload growth.
4. **County Strategic Plan** - Support efforts that further the goals outlined in the County's Strategic Plan as follows: (a) improve the health and well-being of those who live and work here; (b) ensure responsible and sustainable land use; (c) maintain a safe community; and (d) invest in and for the future.
5. **Environmental and Open Space** – Encourage and seek legislation that protects the County's quality of life, its diverse natural resources, and preserves the essence and history of the County. Support funding and regulatory efforts conserve energy, and (General Services) to preserve open space and agricultural viability.



**6. Sacramento-San Joaquin Delta and Suisun Marsh** - Support legislative and administrative efforts to protect the Sacramento-San Joaquin Delta, including the Yolo Bypass (Resource Management)/Cache Slough area, and County's interests relative to land use, agricultural viability, economic development, police or emergency response mandates, environmental preservation, flood protection, levee stability, habitat conservation, recreation, water supply, water quality, and water rights. Support governance structures that give local government a strong and equal voice with other stakeholders in setting Delta policy, and in project development and implementation.

**6-7. Seniors and the Disabled** – Support legislative, administrative and budgetary efforts that seek to maintain active and healthy independence for seniors and the disabled, including housing, funding and other support for those who are homeless or at imminent risk of homelessness. Support services that focus on comprehensive, integrated assistance for the disabled and seniors, including personal in-home care services, food assistance, prevention and investigation of abuse and neglect, and assistance accessing relevant programs such as Medi-Cal, Medicare, Supplemental Security Income (SSI), Cal-Fresh and cash assistance programs. (H&SS - Wallace Pearce, Senior Coalition Executive Committee)

**7-8. State Realignment & Cost-Shifts** - Oppose proposals to restructure, realign, or otherwise shift the cost of state programs to local government, without commensurate compensation and a legislative ability for counties to draw down available federal funding. Support efforts to distribute public safety realignment funds using an equitable formula based on population. Support efforts to improve the stability of current County revenue sources. Oppose any realignment initiatives, which fail to fully fund services shifted to the County.

**8-9. Voting and Election Efficiencies** - Support efforts to modernize election administration to increase voter turnout, reduce the local cost of elections, reduce waiting time at polling places, increase convenience for voters, and improve voting opportunity for overseas and military voters.

Furthermore, the Solano Board of Supervisors adopts the following legislative principles (Listed Alphabetically by Policy Area):

### Agriculture, Natural Resources, and Water

**Solano County supports state legislative and regulatory actions that protect and enhance the County's significant agricultural, water, and natural resources. The County opposes any efforts to cut funding streams for critically important state resource programs. Specific principles include:**

**1.** Support funding via the regulatory authority of the Agricultural Commissioner/ Sealer of Weights and Measures, and extend sunsets where applicable.

~~1.2.~~ including a cost share from the livestock industry for USDA Wildlife Services. Oppose allowing industry self-certification of devices. Support legislation that would improve funding for USDA Wildlife Services management and education programs that aid the agricultural industry and the public in safely addressing interactions with wildlife such as coyotes, bobcats, mountain lions and feral pigs, which impact agriculture, public safety, the environment. (Ag, Weights & Measures)

~~2.3.~~ Support legislation or rulemaking to allow growers to take feral hogs without a depredation permit or hunting license when the hogs are damaging crops or agricultural infrastructure.

~~3.4.~~ Support funding for an alternate intake to the North Bay Aqueduct.

~~4.5.~~ Support efforts to protect the County's Farm Gate, including, but not limited to, full mitigation of agricultural and other economic impacts associated with habitat restoration efforts.

~~5.6.~~ Support efforts to maintain local control/involvement in allocation of water resources.

~~7.~~ Support an increase in California General Fund allocations to High Risk Pest Exclusion programs. Support legislation that would achieve the optimal level of funding for required regulatory activities, such as pest exclusion, detection and eradication, and improve coordination between federal, state and county programs. (Ag, Weights & Measures)

8. Support legislation that would allow growers of specialty crops to participate in crop insurance programs, including legislation that would treat plant pest quarantines as disasters and provide eligibility for economic relief to growers of specialty crops in declared disaster areas. (Ag, Weights & Measures)
9. Support legislation that would improve the funding and effectiveness of pesticide regulation activities to protect the safety of workers, the public and the environment. In addition, support legislation that promotes statewide consistency in the enforcement of pesticide laws and regulations and County Agricultural Commissioners and California Department of Pesticide Regulation primacy for pesticide use enforcement. (Ag, Weights & Measures)
10. Support legislation that would provide grants to increase local producers' competitiveness in specialty crops, including fresh fruits and vegetables. (Ag, Weights & Measures)
11. Support legislation that would promote funded regulatory activities for biologically sound beekeeping, improve the safety of people and animals, and improve the protection of pollinators and native honeybee health. (Ag, Weights & Measures)
12. Support legislation that would encourage conservation of agricultural land by providing funding for conservation easements or the transfer/purchase of development rights and economic incentives for farmers to conserve wetland and grassland habitats on their farms. Also support legislation that promotes the establishment of landowner safe harbor agreements. (Ag, Weights & Measures)
13. Support legislation that would improve customer protection during business transactions involving commercial weighing or measuring devices (scales, meters and scanners). (Ag, Weights & Measures)
- ~~6-14.~~ Support legislation that would assure the clear labeling and accuracy of the net quantity of packaged products to promote value comparison and consumer confidence. (Ag, Weights & Measures)
- ~~7-15.~~ Support legislation that would authorize the Environmental Protection Agency to provide funding to state and local agencies for projects aimed at advancing the goals and objectives of the comprehensive conservation and management plan for the San Francisco estuary.
- ~~8-16.~~ Support changes to the California Constitution to expand the exemption from the majority property owner 2/3rds electorate vote requirement to include stormwater, flood protection/drainage fees, and permit "lifeline rates" for water and stormwater projects to benefit low-income residents.
- ~~9-17.~~ Closely monitor updates to Stormwater rules that may have adverse effects on local communities.
- ~~10-18.~~ Support actions and (Resource Management) legislation that furthers collaborative and comprehensive planning in the Yolo Bypass (Resource Management)/Cache Slough Region, which promotes continued agricultural health and flood risk reduction measures with other state prioritiesResource Management plan. (Resource Management)

## General Government

**Solano County supports state legislative and regulatory actions that protect and enhance the general welfare and quality of life of the County's residents. The County opposes unfunded State mandates and State actions that would preempt local decision-making authority. Specific principles include:**

1. Support funding for new technology to increase accountability and efficiency of local governments.

## General Government (Continued)

2. Support funding formulas for the equitable distribution of state funds while opposing attempts to decrease, restrict, or eliminate County revenue sources.
3. Support funding (based on objective criteria) for the preservation, rehabilitation, and maintenance of historically and/or architecturally significant buildings and structures.
4. Support the ongoing recognition of PACE bonds as assessments.
5. Support cost recovery for the County regarding services provided to other governmental entities.
6. Support legislation that encourages mutually respectful relationships between tribal and local governments including reform to both fee-to-trust process and off-reservation gaming provisions that ensure local government is reimbursed for potential social impacts and/or infrastructure changes and/or upgrades.
7. Support legislation or regulatory reform that allows flexibility in the County's pension plan formula to ensure the County remains a competitive employer in the current market.
8. Support equitable tax sharing agreements for annexation, incorporation, and development projects.
9. Support budgetary efforts for outstanding Payment-in-Lieu-of-Taxes (PILT) funding that is owed to the County and support legislative and budgetary efforts to reinstate ongoing future PILT funding.
10. Support funding and regulatory efforts to expand broadband services to all County residents.
11. Support legislation that equally allocates grant funding to District Attorneys and Public Defenders for attorneys to staff their offices.

## Health and Human Services

**Solano County supports state legislative and regulatory actions that promote the health and welfare of the County's most vulnerable residents, including children, the disabled and seniors. (H&SS - Wallace Pearce, Senior Coalition Executive Committee) The County opposes any efforts to cut funding streams for critically important health and human services-related programs, such as Medi-Cal, and opposes efforts to reduce local flexibility in the implementation of such programs. Specific principles include:**

1. Support legislation relative to the client intake process and case maintenance process, to improve system performance and outcomes.
2. Support legislation for prevention, education, intervention, and treatment services for youth and adults, including the disabled and seniors, with substance use issues, including cannabis, powder alcohol, alcohol, tobacco and other drugs. (H&SS - Wallace Pearce, Senior Coalition Executive Committee)
3. Support sufficient funding for local CalWORKS programs and support services and to sufficiently fund the CalWORKs 2.0 strategy.
4. Support legislation that promotes streamlined and efficient enrollment processes for clients enrolling into government run programs, including free/reduced-cost school lunch program, WIC, Meals on Wheels, and CalFresh. (H&SS - Wallace Pearce, Senior Coalition Executive Committee)
5. Support enhanced funding for quality child care services (that also provide employment and education opportunities for County residents), and for early learning opportunities.
6. Support efforts that assist foster youth in the transition to self-sufficiency and among care providers.
7. Support new or increased funding for mental health programs. Specifically support efforts to allow for flexibility for all appropriately licensed individuals to bill for provided mental health services.
8. Support efforts that assist seniors and the disabled to maintain self-sufficiency and active and healthy independence. Support legislation that would promote the psychological, social, and physical wellbeing of seniors and the disabled through expansion of mental health services and health-related programs including nutrition, education, physical fitness, disease prevention and rehabilitation. (H&SS - Wallace Pearce, Senior Coalition Executive Committee)
9. Support legislation that would provide a comprehensive response to disabled and elder abuse, neglect and exploitation. (H&SS - Wallace Pearce, Senior Coalition Executive Committee)
- 8-10. Support legislative and budgetary efforts to address risk factors for chronic diseases and to optimize preparedness to respond to communicable diseases (including public health lab services).

- 9-11. Support legislation to add e-cigarettes, menthol and smokeless tobacco products containing nicotine to the list of tobacco related products to be regulated by the U.S. Food and Drug Administration.
- 10-12. Support efforts to improve health and promote safety, economic well-being, and aging-in-place initiatives for seniors. (H&SS - Wallace Pearce, Senior Coalition Executive Committee)
- 11-13. Support independent living services for foster youth including housing and educational support.
- 12-14. Support grants and funding for programs to address homelessness, imminent homelessness, and related issues. Work with cities and other community partners to assess and expand affordable housing for low income populations including seniors and the disabled. (H&SS - Wallace Pearce, Senior Coalition Executive Committee)
- 13-15. Support legislation that promotes prevention-focused policies and interventions for illness and injuries.
16. Support full state funding and cost-of-living increases for state programs operated by the County.
- 14-17. Support legislation, budget or administrative action to adequately fund the child support program. (Child Support Services)
- 15-18. Support legislation that increases the reliability of child support payments.

### Health and Human Services (Continued)

- 16-19. Support legislation and funding to address needs of high-risk families, including perinatal services.
- 17-20. Support legislation that would require the state maximum State Supplementary Payment (SSP) grant for individuals to be readjusted and increased so that the state SSP and the federal Restore Social Security Income (SSI), when combined equal 112-138 percent of the Federal Poverty Level (FPL) supplements to previous levels adjusted for cost of living.
- 18-21. Support expansion and funding of Medi-Cal services to increase reimbursement to providers and to fund dental, vision and other services for older adults. Support additional state and federal funding related to the administration of the Medi-Cal program including a realistic methodology to determine administrative burden to counties.
- 19-22. Support legislation and efforts to allow for billing two different services on the same day in a Federally Qualified Health Center (FQHC), and for implementation of prospective payment systems based on a capitation model (per-member, per-month) rather than an encounter-based financing model. Support funding and programs that address issues of shortages within the health care workforce to assure access to quality healthcare.
- 20-23. Support legislation and efforts to promote and implement “whole person care” and to address social determinants of health. Support flexibility in the funding of Health and Social Services to assure collaboration between programs and better overall interventions.
- 21-24. Support adequate funding for implementation of ABAWD regulations with the ABAWD waiver ending in 2018.
- 22-25. Advocate for legislation and budget action that would support and enable data integration and sharing between the State, counties, and local government agencies for the purpose of supporting seamless delivery of critical health and safety services to the public.
- 23-26. Support legislation and funding to address and promote health equity, including health in all policies initiatives.
- 24-27. Support adequate realigned funding for realignment programs.
- 25-28. Support legislation to continue to partner with community based organizations to provide health and social services to high risk populations.
29. Support legislation to recruit and retain health care professionals to serve targeted high-risk populations.
- 26-30. Support the provision of resources for respite care. (H&SS - Wallace Pearce, Senior Coalition Executive Committee)

### Housing, Community & Economic Development, & Workforce Development

Solano County supports state legislative and regulatory actions that promote local housing and community development programs and activities, workforce development programs, and programs aimed at

**encouraging local job and business growth. The County opposes efforts to cut funding for these critically important programs, as well as efforts to restrict local flexibility in the administration of such programs. Specific principles include:**

1. Support Housing Element reform that provides a streamlined certification process, and encourage flexibility in Housing Element consistency review by the California Department of Housing and Community Development (HCD), for jurisdictions that have small housing allocation, limited urban services and city centered development policies.
2. Support housing opportunities for low-income individuals and families, including seniors and the disabled, such as permanent and transitional housing, and Rental Assistance Programs. (H&SS - Wallace Pearce, Senior Coalition Executive Committee)
3. Support funding opportunities to assist cities in providing affordable housing for low-income and homeless individuals.
4. Encourage and seek legislation to facilitate orderly economic expansion and growth, and increase the opportunity for discretionary revenues, programmatic and financial flexibility for the County.
5. Support the federal/State/local delivery system for workforce development programs with State-level initiatives that complement local delivery efforts and add value for these business-led efforts.

## Housing, Community & Economic Development, & Workforce Development (Continued)

6. Support efforts to increase employment opportunities and link training programs to local available employment, including efforts to increase summer employment opportunities for youth.
7. Support appropriate resources to support safe, accessible and affordable housing to targeted low-income seniors and disabled persons. (H&SS - Wallace Pearce, Senior Coalition Executive Committee)

## Public Safety and Emergency Disaster Preparedness

**Solano County supports state legislative and regulatory actions that promote funding for key justice, public safety, and emergency preparedness programs. The County opposes efforts to cut funding for such programs, as well as efforts to restrict local flexibility in program administration. Specific principles include:**

1. Support continued and protected funding for all 2011 Public Safety Realignment programs.
2. Preserve Title IVE funding and obtain fiscal support from the State to implement the requirements imposed by the California Department of Social Services (CDSS).
3. Support actions to mitigate liabilities of longer-term inmates as a result of realignment in areas such as health, mental health, Americans with Disabilities Act (ADA) and other areas of concern; also efforts to mitigate the impacts of long-term confinement in county jails and redirects inmates with sentences in excess of three years to state prisons.
4. Support legislation that provides funding to comply with the additional financial burden of the Prison Rape Elimination Act.
5. Support maximizing reimbursement for inmate medical care from federal Affordable Care Act (ACA).
6. Protect funding for local public safety programs, including COPS, Juvenile Justice Programs, Cal-MMET, Rural Sheriffs, Booking Fees, Vertical Prosecution, and other critical programs.
7. Support efforts to secure appropriate funding for gang-related issues.
8. Support legislation that establishes a presumptive limit for driving under the influence of marijuana.
9. Support continued and protected funding for adult probation services, to include but not limited to drug testing, reports, and supervision fees. (Probation)
10. Support a state offset to recover outstanding restitution ordered to the victims of crimes and other delinquent court ordered fines, penalty assessments, and fees associated with criminal or juvenile justice proceedings; specifically allow the collection term from 3 years to between 10 and 20 years.
11. Support increased funding for prevention, intervention, and victim services for victims of domestic violence, sexual assault, child abuse, dating violence, stalking, elder abuse and human trafficking.
12. Support funding for flood protection of buildings that play a role in local emergency response.
13. Support efforts to improve safety of hazardous materials transported by rail, including crude by rail and enhance capacity of local emergency responders to appropriately respond to potential emergency events resulting from derailment or releases.
14. Support legislation for the availability and affordability of earthquake and flood insurance.
15. Support funding and legislation to assess and mitigate potential impacts on local communities due to climate change and sea level rise.

## Resource Management, Environmental Health, and Sustainability

**Solano County supports state legislative and regulatory actions that promote the environmental health and sustainability of the County, including funding for key programs. The County opposes efforts to cut funding for such programs, as well as efforts to restrict local flexibility in program administration. Specific principles include:**

1. Support legislation and administrative action that further the goals of the County's climate protection efforts, including the ability for a local agency to obtain greenhouse gas reduction credits and funding for energy conservation/alternative energy projects. (General Services)
2. Support funding to sustain operations, maintenance and repair of dated infrastructure in County and local park agencies. Support legislative efforts to keep State Parks open in the County.

3. Minimize proposed changes to Building Codes made by the legislative process. Focus code changes on established procedures through the Building Standards Commission.

### Resource Management, Environmental Health, and Sustainability (Continued)

4. Support repeal of the \$150 per building fee applicable to rural State Responsibility areas and/or return of some of fee revenues to local fire districts.
5. Oppose CalEMA's proposals to require local jurisdictions to purchase repetitive loss properties.
6. Support reinstatement of the Williamson Act program, which was defunded in FY2011/12.
7. Oppose legislation and other ecosystem enhancing actions that diminish the County's ability to require mitigation of the conversion of agricultural lands, including mitigation to enhance existing agricultural lands.
8. Support sensible and meaningful CEQA reform that both streamlines processes and serves to reduce meaningless litigation, while maintaining strong analytic and mitigation requirements for large projects that clearly have significant environmental consequences at a regional or statewide level.
9. Support actions for a responsive, efficient, and effective County environmental health program.
10. Support any legislation that simplifies reporting for local environmental health programs to the state, including revisions to Chapter 6.95 to streamline hazardous materials program reporting.
11. Support legislation allowing local water agencies to determine how to achieve water conservation mandates.
12. Support legislation to improve access to healthy foods via community gardens, school gardens, etc.
13. Support legislation that provides funding opportunities to sustain and expand a countywide parks system.
14. Support legislation that fosters regional purchasing capabilities and inter-jurisdictional infrastructure development to achieve local environmental and sustainability goals/requirements. Support actions for source reduction, recycling and composting, including legislation and grants to support extended producer responsibility.
15. Oppose legislation and rule-making that would diminish local authority to regulate cannabis activities.
16. Oppose legislation that allows sale through internet or directly to consumers of potentially hazardous foods cooked at home kitchens unless local planning approval and local licenses and permits are obtained.
17. Support legislation that streamlines the permitting of organic waste processing, composting and recycling infrastructure to achieve State mandated recycling mandates, while preserving local requirements that allow such use with reasonable public health and the environmental protections, such as wet weather restrictions, setbacks to residences, and other specific requirements based on the type of biosolids and location for biosolids land applications. (Resource Management)
18. Support legislation that allows collaboration between the groundwater sustainability agencies and the local environmental health departments in regards to monitoring and permitting of wells.
19. Support legislation that consolidates and streamlines rules and requirements to enhance groundwater recharge through reuse and recycling.
20. Support funding to assess and encourage innovation toward water conservation and reuse, especially treated waste water, and enhancement of groundwater recharge in unincorporated communities.
21. Support legislation that promotes regional consolidation of water systems in local communities and secures funding for local community and state small water systems that are at risk of failure due to infrastructure age or that pose health and safety risks to customers.
22. Support legislation and administrative actions that provide funding for local agencies and property owners to destroy abandoned water wells that pose safety or water quality impact risks.
23. Support legislation, administrative actions and funding for local agencies to modernize light and heavy equipment fleet vehicles, including transition from diesel-fueled vehicles to cleaner-fueled vehicles. (General Services)
24. Support legislation that promotes extended producer liability on household items such as appliances and furniture items, and that allow local programs for registration of local waste haulers to prevent illegal dumping. (Resource Management)

25. Support funding opportunities to support illegal dumping prevention and enforcement activities.  
(Resource Management)

26. Support legislation for the Building Official to enforce code requirements on Accessory Dwelling Units within a reasonable time frame based on the threat to fire, life and safety, with imminent threats requiring immediate correction. (Resource Management)

## Transportation

**Solano County supports state legislative and regulatory actions that promote and protect the transportation needs of our community. The County opposes efforts to cut funding for key transportation programs, as well as efforts to restrict local flexibility in the administration of such programs. Specific principles include:**

1. Support legislation and budget actions which provide additional and continuing funding for local infrastructure, including local roads, bridges, and transit priorities, as well as continued funding of the California Aid to Airports Program (CAAP) for capital projects. Ensure that existing transportation funding streams are retained. Seek to reverse the diversion of Off Highway vehicle funding.
2. Seek funding from the Cap and Trade measure to pay for road maintenance including green roads and other enhancements to the transportation network that reduce greenhouse gas emissions.

## Transportation (Continued)

3. Oppose legislation and measures that seek to diminish or rescind the Road Repair and Accountability Act of 2017.
4. Oppose legislation that restricts the County's ability to deliver construction projects using specialized consultant, non-profit, or other contract services.
5. Support efforts to improve rail and rail car safety, including positive train control (PTC) technologies, for transportation of hazardous materials including crude oil.
6. Encourage the replenishment of State funding of the Aeronautics Program for Capital Improvement Grant Funding through the California Transportation Commission (CTC); and restore State Aeronautics funding reliability for future project planning.
7. Support Funding and increased access to transportation for those who are low income and lack access to reliable transportation.
8. Support legislation that facilitates funding and improvements to the Highway 37 corridor.

## Veterans and Veterans Affairs

**Solano County supports state legislative and regulatory actions that promote and protect the health and general welfare of veterans in our community. The County opposes efforts to cut funding for key veterans' programs, as well as efforts to restrict local flexibility in the administration of such programs. Specific principles include:**

1. Support efforts that provide enhanced benefits for veterans and active duty, reserve and National Guard members that are cost-neutral to counties, including expanded mental health services.
2. Support legislative, regulatory or policy changes that would create a federal/state/local government partnership to reduce the VA veteran's claims backlog and expand outreach services to veterans.
3. Support legislation and funding to improve existing and construct new local veteran's facilities.
4. Support state legislation to permit the California Department of Corrections and Rehabilitation (CDCR) to collect data on incarcerated veterans and to give that data to the Department of Veterans Affairs (CDVA) for purposes of connecting those incarcerated veterans and their families with the benefits they are still entitled to while incarcerated, as well as upon release from incarceration.
5. Support legislation that would make it a criminal offense to intentionally misdirect or mislead a veteran, or anyone acting on the veteran's behalf, concerning benefits or entitlements.
6. Support legislation that would establish priority enrollment and registration for veterans in community colleges, state colleges, and universities.



7. Support legislation that would provide state income tax relief to retirement pay of military retirees. Support making permanent the recent increase in funding to California Veteran Service Officers.

### Other Agency Legislative Priorities

1. Delta County Coalition - Support the principles developed collectively by the Delta Counties Coalition.
2. Solano LAFCo – Support the ~~2018-2019~~ legislative priorities and programs outlined and adopted by Solano LAFCo.
3. Solano Transportation Authority – Support the ~~2018-2019~~ legislative state priorities and programs as outlined and adopted by the Solano Transportation Authority.
4. Travis Community Consortium – Support the mission of all military organizations located within the County. Support the ~~2018-2019~~ state legislative priorities adopted by the Travis Community Consortium. Furthermore, encourage the State to adopt proactive measures regarding the Base Realignment and Closure (BRAC) and convene an office at the State level to work with each community that has a military installation or defense contractors to protect California's interest with the decline in defense spending and the probable realignment of missions and closure of bases.
5. California State Association of Counties (CSAC). Support the ~~2018-2019~~ legislative state priorities and programs as outlined and adopted by CSAC.

# 2019 LEGISLATIVE PROPOSAL

## Solano County, General Services

**Title:** Office of the State Fire Marshal (OSFM), Fire and Life Safety Division, plan review resource augmentation.

**Current (State and/or Federal) Law:** Unknown State law or OSFM policy

**Problem Statement:** Demand for timely construction plan review exceeds OSFM staff capacity, resulting in costly delay to State-funded building projects.

**Proposed Solution:** OSFM shall delegate construction plan review authority to a designated third-party inspection agency or to the Division of the State Architect or to the local Building Official when OSFM staff is otherwise unable to complete plan review in time to avoid critical project schedule delay.

**Proposed Effective / Operative Date of Solution:** ASAP

**Justification:** Currently, the inability of OSFM to provide timely construction plan review comments and final approval of construction projects results in thousands to millions of dollars annually in unnecessary delay to State-funded building projects.

**Implementation:** Via OSFM contract with authorized on-call third party inspection agency and/or delegated authority to the Division of the State Architect or to the local Building Official. (County or agency requesting OSFM plan review shall indicate, in good faith, the latest date by which review comments and/or final approval must be received from OSFM to avoid critical project delay. OSFM shall make a good faith commitment to return review comments and approvals within the requested period, allowing for stipulated minimum review time, and shall otherwise delegate review and approval authority to a designated third party inspection agency, to the Division of the State Architect, or to the local Building Official in instances in which OSFM reasonably foresees that it is unable to respond within the critical timeframe. Standard review time allowances by project type and/or size shall be published by the OSFM for general guidance to submitting agencies. Multiple plan review periods may be required by OSFM or its authorized plan review agency for instances in which plan review comments are not adequately addressed by the submitting party).

**Fiscal Impact:**

**County:** Saves thousands to millions of dollars annually in avoidable delay to State-funded building projects.

# 2019 LEGISLATIVE PROPOSAL

## Solano County, Resource Management Department

**Title:** Cache Slough Complex Management Plan (CSCMP)

**Current (State and/or Federal) Law:** N/A

**Problem Statement:** The Cache Slough Complex in Solano County is a productive agricultural region highly coveted by the state for its potential for conversion to tidal habitat and, as part of the lower Yolo Bypass, for flood risk reduction. Conversion of agriculture to other uses results in loss of productive land, affects ag lands remaining in the region and creates other negative economic consequences. Land use conflicts are numerous and complex. Lands are being acquired with little attention to direct, indirect and cumulative impacts to the region, and create conflicts among land uses.

**Proposed Solution:** A Cache Slough Management Plan (CSCMP) would create a structure by which existing and proposed land uses in the geographic region are addressed together at the landscape and project scales. Development of a plan that is protective of agriculture while comprehensively planning for land use changes desired by the state, reduces conflict and allows for the necessary multi-objective approach. The process would include a multi-agency governance structure, plan development, environmental review, implementation and regulatory oversight. The County is currently engaged in planning efforts in the larger Yolo Bypass/Cache Slough region; the CSCMP is consistent with and would enhance those efforts.

**Proposed Effective / Operative Date of Solution:** The CSCMP would take no more than 5 years to complete. Habitat and flood-related projects are ongoing in the region and so would not create delay for the state in obtaining its objectives.

**Justification:** The state is in the process of developing significant acreages of tidal and other habitat in Solano County. This creates conflict among land uses, the project-by-project focus lacks clarity, resulting in reduced function and value of both agricultural and ecosystem functions, as well as other economic consequences. A more comprehensive approach is warranted.

**Implementation:** Multi-agency, multi-objective collaborative structure for planning and implementation.

**Fiscal Impact:** Financing would be required to develop and implement CSCMP. Funding could be made available through existing bond programs.

**County:** Solano County (Yolo County)

**State/Federal:** Plan would be multi-jurisdictional and multi-objective in nature

**Other States:**