



Protecting Immigrant Families Advancing Our Future Campaign Take Action Webinar

May 22, 2019

Presented by:

CLASP

Policy Solutions That Work For Low-Income People



NATIONAL
IMMIGRATION
LAW CENTER

PIF Priorities for 2019

Priority # 1

Combat and document the chilling effect of Trump's anti-immigrant agenda, and empower immigrants and their families to make informed and accurate decisions

Priority # 2

Block, delay (and mitigate) the impact of proposed public charge changes and other related harmful policies from taking effect

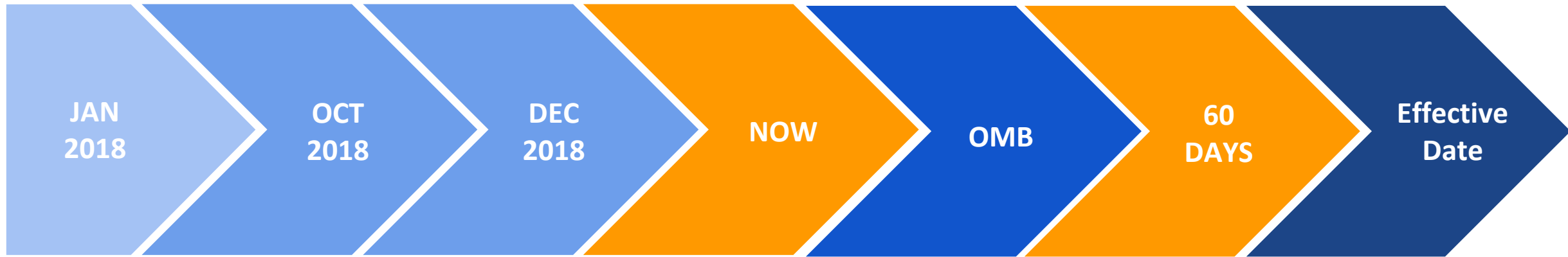
Priority # 3

Build power and support for an affirmative vision forward

Questions we'll address

- **What is the latest news on the public charge rule?**
- **What does the news about a DOJ proposal on deportability mean?**
- **What is in the newly issued HUD NPRM?**
- **How is PIF preparing for the final public charge rule?**
- **What can you expect from PIF if/when DHS rule is finalized?**
- **What can my organization do to take action?**

Timeline of DHS Public Charge Proposal



Changes to the Foreign Affairs Manual

DHS published the proposed rule

More than a quarter million people submitted comments against the DHS rule change

DHS must review and consider all comments

DHS final rule goes to OMB for review and clearance and then posted to the Federal Register

There is a minimum 60 day waiting period before the DHS rule can go in effect (could be longer)

The rule is in effect

Current public charge test *in the U.S.*

Totality of Circumstances

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

Is the person “likely to become *primarily dependent on government for subsistence?*”

The only benefits considered as part of the test are:

- Cash assistance for income maintenance such as SSI, TANfF and comparable state and local programs
- Institutionalization for long-term care at government expense

Changes in proposed regulation

NEW DEFINITION

A dramatically different definition of public charge

TOTALITY OF CIRCUMSTANCES

New weighted factors of the totality of circumstances test designed to make it harder for low and moderate income people to pass

ADDITIONAL BENEFITS

Additional public benefits programs can be considered by immigration officials.

Why this proposal is a radical change

DEFINITION CHANGE

This 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

The 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, etc.

ADDITIONAL BENEFITS

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

Looking Ahead: Response to Final Rule

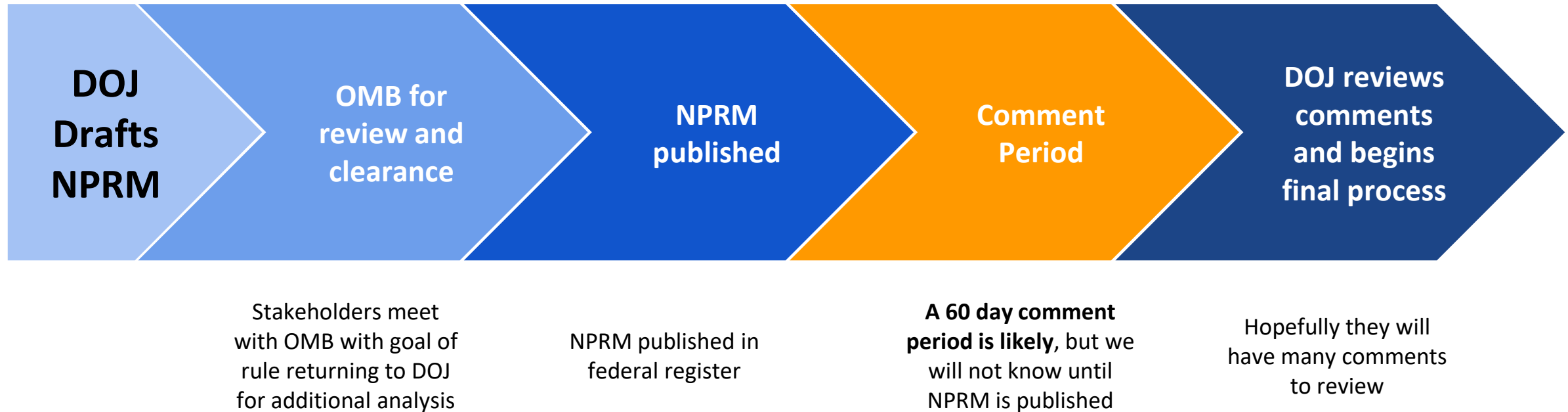


A final rule posted to the Federal Register

There is a minimum **60 day** waiting period before the rule can go in effect (could be longer)

The rule is in effect or blocked by legal action

Possible DOJ Proposed Rule on Public Charge as Basis for *Deportability*



NOTE: DHS rule litigation could impact and halt the DOJ rule depending on the timing.

Grounds for Deportation TODAY

- **Inadmissibility** (apply for entry or admission) v. **Deportability** (already admitted)
 - Note: Naturalization applicants not affected
- The Statute (INA § 237(a)(5); 8 USC 1227(a)(5))
 - Become a public charge within 5 years of entry
 - Due to circumstances that pre-date entry
- Narrowed by case law and interpretations

Grounds for Deportation

Current Limitations

- *Matter of B*
- A person received a benefit (currently cash or long-term care) that creates a legal debt to immigrant or sponsor
- Agency demanded repayment
- Recipient or sponsor refused to repay
- Agency brought action to recover and won in court

Grounds for Deportation (Draft) Proposed Changes

- Public charge = receipt of a listed program
- Not applied retroactively (to newly listed programs)
- Based on conditions pre-existing entry
- *Matter of B* protections eliminated
- Could affect people who are exempt from public charge inadmissibility (like humanitarian immigrants)
- I-944 self-sufficiency form could be used for non-LPR cancellation applicants

Grounds for Deportation

Unresolved Issues

- Does “entry” = “admission”?
 - What about returning LPRs?
- Who will be vulnerable to deportation?
 - Who is eligible for these benefits within first five years?
 - Are refugees/asylees not subject to public charge inadmissibility?
- What would chilling effect look like?
- Are there possible legal challenges?

Low Income Housing Eligibility Today

Under a federal law called Section 214 of the Housing and Community Development Act of 1980:

- The housing subsidies of mixed status families are prorated so that ineligible family members do not receive any housing assistance.
- By providing assistance only to citizens and other eligible immigrants, the law permits members of mixed status families to reside together.

There are currently over 25,000 mixed-status households or families whose citizen or eligible immigrant members receive housing subsidies.

Proposed Changes to Low Income Housing Eligibility

HUD's NPRM would prohibit “mixed status families” from living in public housing and Section 8 programs.

- The rule would require all residents under the age of 62 to have their immigration status screened through the Systematic Alien Verification for Entitlements system operated by DHS.
- Require housing agencies and property owners to collect documents “proving” the citizenship of over 9 million residents who have already attested.
- Families with members who are deemed ineligible will be evicted from subsidized housing after 18 months or sooner.

According to figures provided by HUD, over 55,000 children who are eligible for public and assisted housing would face eviction because they live in mixed status families.

HUD Proposed Rule Publication



A 60 day comment period is in effect, comments can be submitted through **July 9, 2019**

Hopefully we will generate as many comments as possible for their review. You can submit a comment at www.keep-families-together.org

Preparing for Action: PIF Workgroups

Preparing for Action: Federal Advocacy

Points of Contact

Ben D'Avanzo | Asian Pacific Islander Health Forum

Alex Costello | Center for Law and Social Policy

Sonya Schwartz | National Immigration Law Center

Federal Advocacy DHS Rule Finalization

Preparations Now

- EO 12866 (OMB) Plan of Attack
- Facts Sheets: [Opposition by Sector](#)
- Rep. Chu Re-introduce HR 7052/ ID Senate Sponsor of companion bill
- Oversight questions shared with committees
- House Judiciary oversight of DOS
- Special order June 12

Rapid Response

- **Day 1 telephonic Hill briefing**
- **Asks of Hill:**
 - Speak out against the rule publicly
 - Co-sponsor Chu/ Senate - No federal funds for public charge act
 - Educate constituents

Preparing for Action: Policy & Legal Analysis

Points of Contact

Lena O'Rourke | O'Rourke Health Policy Strategies (for CLASP)

Sonya Schwartz | National Immigration Law Center

Policy / Legal Working Group DHS Rule Finalization

Preparations Now

- Facts Sheet on chilling effect
 - [Harm Happening Now](#)
- Fact sheets on harm by sector
 - [Members of Congress Oppose Public Charge](#)
 - [State Policymakers Oppose Public Charge](#)
 - [Mayors Oppose Public Charge](#)
 - [America's Leading Health Plans Oppose Public Charge](#)
 - [Education Groups Oppose Public Charge](#)
 - [Public Health Groups Oppose Public Charge](#)
 - [Housing Organizations Oppose Public Charge](#)
 - [Food Banks & Anti-Hunger Groups Oppose Public Charge](#)
- FAQs on DHS and DOJ rules

Rapid Response

- **Day 1:**
 - Side-by-side of key provisions
 - 2-page fact sheet
 - “Supernerds” begin analysis
- **Day 2-6**
 - Supernerds issue deeper analysis
 - Additional Q&A work begins
 - Revise Storyboard

Preparations Happening Now

- Common interest agreement with litigation teams across the country. Monthly calls to strategize and coordinate
- Multiple cases may be brought by public interest attorneys and government actors in multiple jurisdictions
- Amicus briefs in the works with PIF members working with pro bono law firms to turn comments into a smaller number of consolidated briefs – Thank you!

NILC + Co-Counsel Case

- Attack the rule on its face under APA and other claims
- Use litigation as a vehicle for narrative change and movement building
- Use an integrated approach w/ litigation and policy team (relying on comment record and allies)
- Plaintiff-centered approach

Rapid Response

- Review final rule upon publication for any significant changes from proposed NPRM
- Goal is to get injunctive relief to block the rule before it takes effect and ultimately to block it forever

Disclaimer: We apologize, but we can't share details about litigation due to attorney client privilege

Preparing for Action: Research

Points of Contact

Renato Rocha | Center for Law and Social Policy

David Kallick | Fiscal Policy Institute

Research Working Group DHS Rule Finalization

Preparations Now

- **Prepare to re-issue** short versions of research or publish new research based on final rule
- **Document harm:**
 - Review and compile qualitative research tools (i.e., focus groups, small sample surveys)
 - Develop simple tracking tools
 - Add public charge-related questions to existing surveys
- **Fact sheet:** [Harm Happening Now](#)

Rapid Response

- **Day 1:**
 - Identify and compile most relevant research based on final rule
 - Share research with other WGs to inform development of data-driven material
- **Week 1 and Onward**
 - Re-issue and publish research based on final rule

Preparing for Action: Communications

Points of Contact

Ed Walz | Springboard Partners

Communications Working Group DHS Rule Finalization

Preparations Now

- **Press outreach**
 - Draft advisory and skeleton press release for telephonic press conf.
 - Creating a toolkit for partners
 - Messages
- **Pitch note**
 - Editorial board memo
 - Statement / release
 - Op-ed
 - Letter to the editor

Rapid Response

- **Day 1:**
 - Telephonic Press Conference
 - Statement
 - Partners toolkit
- **Week 1 and on**
 - Tweetstorm, other social media
 - Pitching
 - Opinion outreach

SAMPLE MESSAGES - 501(c)(3) Orgs

“While we focus on the wall and who pays for it, Trump’s building an invisible wall to keep everyone but the white and the wealthy out. The newly-final public charge regulation is part of that sweeping government-wide assault on immigrant families. From DHS and the State Department to HUD, the Social Security Administration, and the USDA, he’s weaponizing basic needs to send immigrant families one message: you aren’t welcome here. That’s what the real border shutdown looks like. We all must fight back against this racist, abusive policy.”

SAMPLE MESSAGES - 501(c)(4) Orgs

“While we focus on the wall and who pays for it, Trump’s building an invisible wall to keep everyone but the white and wealthy out. The newly-final public charge regulation is part of a sweeping government-wide assault on immigrant families. The message and purpose is to disempower communities of color and tell us we aren’t welcome here. It won’t work. All of us, regardless of what we look like or how much money we have, should be able to use our voices to fight for justice and fairness. It’s up to us to support elected officials who uphold these values, and reject those who try to divide us to advance their agendas.”

Preparing for Action: Education & Mobilization

Points of Contact

Connie Choi | National Immigration Law Center

Renato Rocha | Center for Law and Social Policy

Education & Mobilization Working Group DHS Rule Finalization

Preparations Now

- Community education grants
- Refining and creating new community-facing resources:
 - [Keep Getting the Help You Need](#)
 - [Let's Talk About Public Charge](#)
- Activation of review board
- Prepping and brainstorming potential state/local legislative and administrative asks

Rapid Response

Make sure immigrant families have up-to-date information to make the best decisions for themselves and loved ones

- **Day 1:**
 - Convene WG to share topline messages and intel
- **Week 1 and Onward:**
 - Refine our advocacy asks and community-facing materials post-analysis
 - Organize townhalls.community events, ethnic media outreach

**What can you expect from
PIF when (if) the DHS rule is
finalized?**

Rapid Response on DHS Rule: Day 1

Happenings Day 1

- Email Alert within First Hour
- Working Group Calls
- Press Call
- Telephonic Hill Briefing
- Principal's Call
 - [Fill out this form](#) to be added to the call
- Field Call

Materials Day 1

- Updated 2 Page Fact Sheet
- Side-by-Side of Major Provisions
- Updated Public-Facing Message House

Rapid Response on DHS Rule: First Week

Happenings in First Week

- Day 2 Webinar
- Day 2 Tweetstorm
- Possible in person Hill briefing
- Possible litigation filing activities
- FB Live with MomsRising in English and Spanish
- More frequent working group calls

Updated Materials in First Week

- Public Charge Analysis and FAQ
- Keep Getting the Help You Need
- Examples of Who Public Charge Applies To
- State Impact Fact Sheets

Questions & Answers

Please type your questions and comments into the Chatbox