

December 1, 2018

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

RE DHS Docket No. USCIS-2010-0012, RIN 1615-AA22, Comments in Response to Proposed Rulemaking: Inadmissibility on Public Charge Grounds

Dear Ms. Deshommès:

AASA, The School Superintendents Association submits the following comments in response to the October 10, 2018 notice by the Department of Homeland Security of its proposed rule setting forth new “public charge” grounds for inadmissibility. AASA is the professional organization for more than 13,000 educational leaders in the United States and we write to share the views of our members. AASA strongly opposes the proposed rule and the impact it will have on children and families in the communities we lead. Specifically, we fear it will lead to a reduction in access to healthcare, food and housing for the children we are charged with educating, which will impede school districts’ efforts to ensure every child is a productive, successful member of American society.

First, we believe the proposed regulation will negatively impact K-12 students’ access to healthcare despite a carveout in the regulation for accessing school-based Medicaid programs. Recent research¹ has shown that the proposed rule would have “a chilling effect” that could lead to disenrollment from public programs for a larger group of immigrant families because they do not understand the rule’s details and would fear their or their children’s enrollment could negatively affect their or their family members’ immigration status. An analysis conducted by Kaiser Family Foundation found that 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. These estimates reflect disenrollment among immigrants who lack legal permanent resident status and fear participation could affect their changes of receiving legal permanent resident status as well as disenrollment among a broader group of enrollees in immigrant families, which could encompass their primarily U.S. born children.

Schools deliver health services effectively and efficiently to children—immigrant and native-born—since school is where these children spend most of their days. Increasing access to health care services through Medicaid improves health care and educational outcomes for all students including immigrant children. Providing health and wellness services for immigrant children through school-based Medicaid programs helps enable these children to become employable, attend higher-education and be productive contributors to American society.

Districts are already strained in ensuring qualified children from immigrant families access school-based Medicaid programs. AASA has spoken to school leaders across the U.S. who have received proactive requests from families over the past year asking that their children be dis-enrolled from the school-based

¹ Kaiser Family Foundation, Proposed Changes to “Public Charge” Policies for Immigrants: Implications for Health Coverage (September 2018), available at <https://www.kff.org/disparities-policy/fact-sheet/proposed-changes-to-public-charge-policies-for-immigrants-implications-for-health-coverage/>

Medicaid program. Other district leaders report a significant decline in participation in these programs since the announcement of the regulation in Spring 2018 and even declines in school attendance for children who are still living within the district.

While school administrators try to explain to parents that their children are entitled to Medicaid or CHIP and that they will not be sharing this information with immigration enforcement agencies, school administrators have not been successful in convincing families to continue allowing them to provide Medicaid-reimbursable services to their children. While some obligations for serving students with disabilities fall to the district regardless of whether the parent consents to billing Medicaid, many districts can bill Medicaid for services for children that are considered under Early and Periodic Screening, Diagnostic and Treatment (EPSDT) benefits. However, the district is not obligated to meet these additional healthcare needs of children without an IEP and without Medicaid reimbursement it is often difficult to continue to do so. Thus, children could lose valuable access to healthcare services in schools or schools will be forced to use local dollars, if available, to continue to meet the healthcare needs of these children. Ultimately, this could lead to less successful educational outcomes for children if schools or Medicaid cannot address the healthcare impediments to learning.

As to the question of whether the Children's Health Insurance Program (CHIP) should be included in a public charge determination, AASA opposes its inclusion for many of the same reasons that we oppose the inclusion of Medicaid. In addition to the great harm that would be caused by the inclusion of CHIP, this would be counter to Congress' explicit intent in expanding coverage to lawfully present children and pregnant women. Section 214 of the 2009 Children's Health Insurance Program Reauthorization Act (CHIPRA) gave states a new option to cover, with regular federal matching dollars, lawfully residing children under Medicaid and CHIP during their first five years in the U.S. This was enacted because Congress recognized the public health, economic, and social benefits of ensuring that these populations have access to care.

Second, we oppose the regulation because of how it will exacerbate food insecurity of children. The consequences of food insecurity are especially detrimental to the health, development, and well-being of children.² Children are more likely to become sick without access to proper nutrition and could experience developmental delays as well. Any delays that impact learning will have to be addressed by schools, thus putting the burden on meeting the nutritional needs of children who are too hungry or malnourished to learn back on districts. Further, research shows a link between food insecurity and poor educational performance and academic outcomes for children³ — all of which have developmental, health, and economic consequences in both the short and long terms. Hungry children are less able to learn and are more likely to miss school due to illness, repeat a grade, receive special education services, and/or receive mental health services.⁴ Moreover, districts that already work with emergency food providers to ensure that children are receiving food on weekends and holidays are going to be stretched to maintain this work given the increased need of families who are no longer receiving SNAP. Consequently, this will place an incredible burden on districts to ensure children are accessing the food they need to be able to learn.

Third, we oppose this regulation as it will lead to increased numbers of children in unstable housing situations as it will deter eligible immigrant families from seeking much-needed housing and homelessness benefits. If families opt out of housing opportunities in our community and become homeless, families will experience increased housing instability, likely driving up homeless rates, increasing housing mobility, or both. Having safe and stable housing is crucial to a person's good health, sustaining employment, and overall

² Food Research & Action Center. (2017). Hunger and Health: The Role of the Supplemental Nutrition Assistance Program in Improving Health and Well-Being. Available at: <http://frac.org/wp-content/uploads/hunger-health-role-snap-improving-healthwell-being.pdf>. Accessed on October 5, 2018.

³ Jyoti, D. F., Frongillo, E. A., & Jones, S. J. (2005). Food insecurity affects school children's academic performance, weight gain, and social skills. *Journal of Nutrition*, 135, 2831-2839

⁴ Howard, L. L. (2011). Does food insecurity at home affect non-cognitive performance at school? A longitudinal analysis of elementary student classroom behavior. *Economics of Education Review*, 30, 157-176.

self-sufficiency. These effects will be particularly prominent in children, many of whom are U.S. citizens, who are part of immigrant families. Research has shown that economic and housing instability negatively impacts children's cognitive development, leading to poorer life outcomes as adults.⁵ Housing instability is directly correlated to decreases in student retention rates and contributes to homeless students' high suspension rates, school turnover, truancy, and expulsions, limiting students' opportunity to obtain the education they need to succeed later in life.⁶ The loss of federal housing assistance will increase the risk of students living in unsafe, overcrowded, and unstable housing. Housing instability, coupled with other stressors, results in high levels of parental stress that can harm children's cognitive development and lower educational attainment.⁷

When families opt out of public housing assistance and become homeless districts will have to do more to serve children who are now displaced from their homes. Specifically, districts will be required to provide specific educational services for immigrant children under the McKinney-Vento Act to ensure that homeless children are able to continue to attend school. It is considerably expensive to meet the requirements under the McKinney-Vento Act to serve homeless children. The lack of federal funding associated with the program's mandates means that school districts rely on local funding to meet the needs of homeless students they currently serve. If this number increases, then districts will struggle greatly to ensure they maintain compliance with McKinney-Vento and that all homeless children in the district receive the services and educational stability they are entitled to by law.

In conclusion, AASA asks that you do not move forward with this regulation as it will have a devastating impact on the children that we educate and the school district budgets we manage. Schools have a legal requirement to accept and educate all students that come through their door, regardless of their or their family's immigration status, and we expect federal laws and policies to support school districts in our efforts to educate students, not undermine those efforts. We strive to serve all students in our districts and believe this regulation would imperil the educational benefits of all students.

For these reasons, we urge you to withdraw this harmful proposed rule in its entirety. If you have any additional questions, please reach out to AASA's Advocacy Director, Sasha Pudelski, at spudelski@aasa.org.

Sincerely,



Daniel Domenech
Executive Director

⁵ 21 HEATHER SANDSTROM & SANDRA HUERTA, THE NEGATIVE EFFECTS OF INSTABILITY ON CHILD DEVELOPMENT: A RESEARCH SYNTHESIS (2013), <https://www.urban.org/sites/default/files/publication/32706/412899-The-Negative-Effects-of-Instability-on-Child-Development-A-Research-Synthesis.PDF>.

⁶ See Mai Abdul Rahman, *The Demographic Profile of Black Homeless High School Students Residing in the District of Columbia Shelters and the Factors that Influence their Education* 55 (Mar. 2014) (Ph.D. dissertation, Howard University), available at <http://gradworks.umi.com/3639463.pdf> (citations omitted).

⁷ HIROKAZU YOSHIKAWA, IMMIGRANTS RAISING CITIZENS UNDOCUMENTED PARENTS AND THEIR YOUNG CHILDREN 23-24 (2011); Heather Sandstrom & Sandra Huerta, *The Negative Effects of Instability on Child Development: A Research Synthesis* 28-32 (Urban Inst., Low-Income Working Families, Discussion Paper No. 3, 2013), available at <https://www.urban.org/sites/default/files/publication/32706/412899-The-Negative-Effects-of-Instability-on-Child-Development-A-Research-Synthesis.PDF>.