



Opposing the Public Charge Rule

A Comment Toolkit for People and Organizations Concerned About the Impact on Anti-Hunger Work

Comments must be submitted by December 10, 2018

Table of Contents

[Introduction](#)

[Why Comments are Important](#)

[How to Submit a Comment](#)

[Tips for Submitting a Comment](#)

[Sample Comment Messages by Stakeholder Area](#)

[All Stakeholders](#)

[Anti-Hunger Advocates/Organizations](#)

[Public Health/Health Care Stakeholders](#)

[Early Childhood/Child and Adult Care Food Program Stakeholders](#)

[Out-of-School Time Program Stakeholders](#)

[School Stakeholders](#)

[Senior Stakeholders](#)

[Farming, Farmers' Markets, Sustainable Agriculture Stakeholders](#)

[States/State Agencies](#)

[College Stakeholders](#)

[Businesses](#)

Introduction

On October 10, 2018, the Department of Homeland Security published a proposed [“public charge” rule](#) in the Federal Register. The proposed rule expansively — and unnecessarily — redefines what being a “public charge” means, with adverse consequences for immigrants, fundamentally changing who would be able to enter and stay in the United States.

Public charge is a long-standing doctrine that can affect an immigrant’s ability to be admitted to the United States or obtain lawful permanent resident (LPR) status (a green card). A person’s potential to become a public charge can be considered in granting admission or LPR status. This rule would radically change that doctrine.

This proposed rule expansively — and unnecessarily — redefines what being a “public charge” means. Whereas current guidance focuses on whether an intended immigrant is likely to become *primarily dependent* on benefits for subsistence, the proposed rule extends public charge to include anyone who is likely to use more than a minimal amount of a radically expanded list of critical programs. Programs that may be considered in a public charge determination would include not only cash programs (SSI and TANF) and publicly funded long-term care, *but also* the Supplemental Nutrition Assistance Program (SNAP or food stamps), Medicaid, Medicare Part D Low-Income Subsidy, and housing assistance. The Department of Homeland Security asks for input on inclusion of the Children’s Health Insurance Program (CHIP).

For additional details on public charge doctrine, visit FRAC’s [public charge resource page](#).

If adopted, this rule would make immigrant families afraid to seek programs like SNAP that safeguard their health, nutrition, housing, and economic security. (Even before the proposed rule was published in the Federal Register, it resulted in concerning drops in participation in federal nutrition programs).

SNAP rules are complicated. Public charge rules as to which steps in the immigration process are impacted, and which are not, are complicated. The interaction of these two complicated sets of rules will generate increased fear and confusion, even in instances where refugees, asylees, and children who are lawful permanent residents are eligible for SNAP and free of public charge consequences. A factsheet on [The Hunger Impact of the Proposed Public Charge Rule](#) provides background on how the rule would increase food insecurity, poverty, and poor health.

Tell the Department of Homeland Security that no family should have to choose between family and food — submit a comment today.

Why Comments are Important

FRAC serves as the Nutrition Sector Lead of the [Protecting Immigrant Families Campaign](#). The Campaign is working with multiple groups across the country to submit 100,000 comments opposing the rule. Every comment — whether it is a few sentences or heavily footnoted — is essential to meeting this goal.

These comments can help shape the Agency's decisions. By law, the agency is required to review and consider all comments submitted before issuing a final rule. This review process could take months — or even longer. Once a final rule is published, the rule will not become effective for at least 60 days. The proposed rule states that changes will apply only to benefits received after the rule is effective.

How to Submit a Comment

- 1) [Learn more](#) about how the proposed rule will lead to more hunger, sickness, and poverty in the country.
- 2) Review model comments tailored for specific stakeholder groups.
- 3) Submit your comment opposing the proposed rule by December 10, 2018, to the Department of Homeland Security via [FRAC's comment platform](#). Your comment will be sent directly to [Regulations.gov](#).
- 4) Use these [social media tools](#) to mobilize your friends, family, and colleagues to submit a comment.

[NOTE: Comments can also be submitted by mail or in person.](#)

Tips for Submitting a Comment

Remember, the goal is to collect 100,000 **unique** comments. To reach this goal, FRAC will need your help. Please be on the lookout for social media assets and other resources to help you engage your networks.

Here are a few tips on how to make this happen.

DO

- Make the comments your own;
- If you are an expert, highlight your qualifications;
- If you are a concerned individual, highlight why you care
- If you've benefitted from SNAP, share how the program helped you;
- Include a relevant personal story — your own or someone else's (if you use their name, get permission) about how the rule will increase hunger and about how these programs help people succeed;
- Highlight relevant data and research; and
- Provide a translation of non-English comments.

DON'T

- Sign on to comments from someone else (A sign-on letter with 10 signatures would only be counted by the agency as one comment. If those 10 people were to each send in their own comment that would count as 10 comments);
- Copy someone else's comments verbatim.

Sample Comment Language by Stakeholder Group

Below is information you may want to reference when drafting your comment. Please feel free to use information from the stakeholder group(s) that best fits your experience.

Sample Comment Messages by Stakeholder Area

[All Stakeholders](#)

[Anti-Hunger Advocates/Organizations](#)

[Public Health/Health Care Stakeholders](#)

[Early Childhood/Child and Adult Care Food Program Stakeholders](#)

[Out-of-School Time Program Stakeholders](#)

[School Stakeholders](#)

[Senior Stakeholders](#)

[Farming, Farmers' Markets, Sustainable Agriculture Stakeholders](#)

[States/State Agencies](#)

[College Stakeholders](#)

[Businesses](#)

All Stakeholders

Given FRAC's areas of expertise, this toolkit focuses on comments related to opposing the rule's inclusion of an expanded list of public benefits—especially SNAP but also health and housing programs—for purposes of a public charge determination and how this inclusion will fuel rates of hunger and food insecurity. However, anti-hunger stakeholders may also want to include in their comments opposition to other especially troubling aspects of the rule that target families with children, seniors, non-English speakers, or low incomes. E.g., how the proposed rule:

- **Expansively—and unworkably—redefines what being a “public charge” means.** Whereas current guidance focuses on whether an immigrant is likely to become *primarily dependent* on public benefits for subsistence, via particular supports, the proposed rule extends a public charge inadmissibility determination to include an immigrant who is “likely to receive at any time in the future one or more public benefits,” constituting a much lower threshold for deeming someone a public charge.
- **Radically alters the totality of circumstances test in ways that explicitly favor immigrants with wealth and resources and disfavor children and seniors.** The totality of circumstances test guides the decision as to whether an immigrant would be deemed a public charge. The proposed rule

assigns a *negative* weight to many factors in this test that have never been relevant in a public charge determination, including being a child or a senior or not speaking English. The rule also counts as a negative factor if the applicant has bad credit, assets and resources below 125 percent of the federal poverty guideline, or has received immigration fee waivers. The rule counts as *heavily weighed negative* factors current receipt of one or more public benefits or receipt of public benefits within 36 months prior to filing an immigration application. The only heavily weighed positive factor is whether an immigrant has financial assets, resources, support, or annual income of at least 250 of the federal poverty guidelines.

- **Devalues the Affidavit of Support, making it harder for low-income immigrants.** The proposed rule specifies that an affidavit of support from the applicant’s sponsor (often a relative) will count as a positive factor if the assets and resources of the sponsor are equal to or greater than 125 percent of the federal poverty guidelines and if the sponsor would provide financial support to the alien. This abandons the current practice where a valid affidavit of support would be enough on its own to overcome public charge concerns in the totality of circumstances test.

Anti-Hunger Advocates/Organizations

Emphasize how the rule would greatly undercut efforts to address food insecurity and poverty by making it harder for immigrant families to access a range of nutrition, health, and human services programs that are essential to our nation’s health and well-being. Focus on how immigrant families would be forced to make impossible choices between accessing vital programs that safeguard their health, nutrition, housing, and economic security *and* keeping their family together in the United States; and how the rule itself states on page 51,270, “There are a number of consequences that could occur ... Worse health outcomes, including increased prevalence of obesity and malnutrition, especially for pregnant or breastfeeding women, infants, or children, and reduced prescription adherence ... and increased rates of poverty.”

Choose from any of the following on why the rule will

- **Spur immigrants who are legally authorized to participate in SNAP and other programs, including Medicaid, Medicare Part D, and housing assistance, to forgo assistance or disenroll, jeopardizing their food security, health, well-being, and economic security** – The rule will have a chilling impact on SNAP participation; families will fear that participation in – even participation by U.S. citizen family members – will affect a loved one’s ability to stay or enter the country and will therefore disenroll or forgo enrolling in SNAP. The loss of access to SNAP would further exacerbate food insecurity. SNAP is a critical source of support for struggling households; research shows how SNAP lifts people out of poverty, reduces hunger and obesity, and improves school attendance, behavior, and achievement.ⁱ

- **Shift costs associated with the harms to health, food security, economic security, education and well-being of families impacted by this proposed rule not just to the families involved, but to states and localities** — Families who are stripped of federal assistance will still need assistance with food and other basic needs. States would incur increased costs to meet this need and/or costs associated with poorer health, education, and worker productivity outcomes related to loss of federal assistance. In the wake of eliminating SNAP eligibility for many legal immigrants after the 1996 welfare law change, several states invested state dollars to meet part of the resulting need for food assistance. Those stop-gap measures proved to be neither comprehensive nor sustainable in the long run. States and localities should not have to bear the costs of federal withdrawal of assistance to people who depend on safety net and public benefit programs to live.
- **Create an unmanageable demand at nonprofits, such as faith-based groups and emergency food providers, to absorb the increased need.** Families who are stripped of government assistance will still need assistance with food and other basic needs; the charitable network will not be able to replace the vital assistance SNAP and other health and housing programs provide.
- **Harm health** — The proposed rule will increase food insecurity. Food insecurity is associated with some of the most common and costly health problems in the U.S., including diabetes, heart disease, obesity, hypertension, chronic kidney disease, and depression. The consequences of food insecurity are especially detrimental to the health, development, and well-being of children.ⁱⁱ
- **Harm one’s ability to get healthy** — Families experiencing food insecurity may need to use coping strategies to stretch insufficient budgets (e.g., underusing medicine, forgoing foods for a special medical diet, or diluting or rationing infant formula due to cost considerations). These coping strategies exacerbate existing disease and compromise health.ⁱⁱⁱ
- **Harm academic outcomes for children** — Research shows a link between food insecurity and poor educational performance and academic outcomes^{iv,v,vi,vii} for children — all of which have developmental, health, and economic consequences in both the short and long terms.
- **Increase rates of poverty** — Inclusion of SNAP and other safety net programs (including Medicaid, Medicare Part D, and housing assistance) will drive families away from vital safety net programs; loss of access to these programs would further exacerbate poverty and food insecurity. Based on the Census Bureau’s Supplemental Poverty Measure in 2017, SNAP moved 3.4 million people out of poverty, and housing assistance moved 2.9 million people out of poverty.

- **Change how Congress has already deemed certain immigrants eligible for nutrition programs** — By creating negative consequences for some immigrants and instilling fear and uncertainty for others, this rule strips immigrant families of access to programs for which they are eligible that provide vital support to help them move out of poverty; Congress has already laid out specific standards and requirements within federal public benefits programs to decide which non-citizens or citizens living with non-citizens can access a range of public benefit programs, including SNAP; these policies would be undercut if the public charge doctrine were expanded to SNAP and other federal programs in ways that deter people from accessing benefits that they are authorized by Congress to receive.
- **Generate confusion for federal, state, and local agencies and service providers** — The rule would reverse longstanding existing law, policy, and practice in interpreting the public charge law. The receipt of SNAP and other non-cash benefits has never been a determining factor in deciding whether an individual is likely to become a public charge. Staff would have to field a range of questions—from those potentially affected by the policy and those confused by the policy or fearful that they are covered — that they would not have the immigration law background to handle; families who are legally eligible for programs will disenroll or forgo assistance, creating costs associated with disenrolling people, providing notice to current participants, and responding to multiple inquiries.

Public Health/Health Care Stakeholders

Emphasize how important SNAP, Medicaid, and Medicare Part D are to health and how this rule will spur rates of hunger, poverty, and poor health among immigrant families. For instance, how SNAP improves dietary quality, protects against obesity, and improves health, especially among children, and with lasting effects.

Discuss how the rule will

- **Undercut the health of families.** Food insecurity is associated with some of the most common and costly health problems in the U.S., including diabetes, heart disease, obesity, hypertension, chronic kidney disease, and depression. Restricting access to SNAP would eliminate the health benefits participants get from the program.
- **Increase health care costs.** Food insecurity and related health problems are immensely costly; the U.S. had \$178 billion in avoidable healthcare, educational, and lost work productivity costs attributable to hunger and food insecurity in 2014. Restricting access to SNAP would increase avoidable costs attributable to hunger and food insecurity.

Early Childhood/Child and Adult Care Food Program Stakeholders

Emphasize how important SNAP is to young children and their families and how this rule will increase rates of hunger, poverty, and poor health among immigrant families. For instance, SNAP has dramatic and positive impacts on children's nutrition and health; SNAP sets the stage for healthy child development that can extend into adulthood.

Discuss how the rule will

- **Hurt infants and young children.** SNAP is a critical source of support for millions of preschool-age children and their families. The rule will prevent parents from accessing the nutrition needed for their own health and the health and development of their children. Decades of research have shown how proper nutrition in the early years is critical to healthy development and lifelong outcomes. Research also shows the inextricable link between the health of a parent and the health of their child.
- **Harm your provision of child care and your community.** When children do not benefit from SNAP, the result is clear: more children will arrive at your center or family child care home hungry. The rule will result in staff receiving questions about complicated immigration issues on which they are not trained to respond. The rule also will reduce the amount of federal dollars drawn into your local economy.

Out-of-School Time Program Stakeholders

Emphasize how important SNAP is to education, learning, and health and how this rule will spur rates of hunger, poverty, and poor health among immigrant families. For instance, how SNAP has dramatic positive impacts for children's nutrition, health, and academic achievement; how SNAP nourishes children so they can fully participate in enrichment programs.

Discuss how the rule will

- **Hurt the children and families in your program.** Fewer children and families will use SNAP, Medicaid, and housing programs or even your out-of-school time program due to fear and uncertainty; children who no longer have access to SNAP and other vital programs will come to your programs hungry and in ill health, less able to learn and more likely to be absent due to illness.
- **Harm your program and community.** The rule will increase fear among immigrant families and potentially reduce the number of children and teens who feel safe attending your programs. It also will reduce the ability to achieve economies of scale, hurting your program's bottom line. Staff will receive questions about complicated immigration issues on which they are not trained to respond; the rule would greatly undercut efforts to address food insecurity

and poverty by making it harder for immigrant families to access SNAP, Medicaid (non-emergency), Medicare Part D, housing, and income support programs that are essential to our nation's health and well-being.

School Stakeholders

Emphasize how important SNAP is to education, learning, and health and how this rule will spur rates of hunger, poverty, and poor health among immigrant families. SNAP is a critical source of support for struggling households; research shows how SNAP lifts people out of poverty, reduces hunger and obesity, and improves attendance, behavior, and achievement in school; proper nutrition is critical to individual children and to the wider school environment.

Discuss how the rule will

- **Hurt children and families in your school.** For instance, how driven by fear and uncertainty, fewer children and families will use SNAP; you will see more children coming to school hungry and sick; hungry children are less able to learn and are more likely to miss school due to illness, repeat a grade, receive special education services, or receive mental health services.
- **Harm your school and community.** For instance, how the rule will divert school resources to addressing the harms to student health, academic achievement, learning, etc.; generate stress and confusion among staff, children, and families due to uncertainty about whether a family may be impacted by this complicated federal rule.

Senior Stakeholders

Emphasize how important SNAP, Medicaid, and Medicare Part D are to the health, nutrition, and well-being of seniors and how this rule will increase rates of hunger, poverty, and poor health among immigrant families with seniors. For instance, how SNAP reduces hunger and improves health; older adults participating in SNAP are less likely to delay refilling a prescription, skip medication doses, or take less medication to save money.

Discuss how the rule will

- **Harm senior health and independence.** Seniors are particularly vulnerable to the harmful effects of food insecurity which are associated with some of the most common and costly health problems in the U.S., including diabetes, heart disease, obesity, hypertension, chronic kidney disease, and depression. Restricting access to SNAP and critical programs would eliminate the health benefits participants get from these programs and put seniors at risk.
- **Harm senior social service networks.** When seniors do not benefit from SNAP, the result is clear: more seniors will arrive at your center hungry. The rule

will result in staff receiving questions about complicated immigration issues for which they are not trained on how to respond.

Farming, Farmers' Markets, Sustainable Agriculture Stakeholders

Emphasize how important SNAP is to farmers. For instance, how in 2017, more than \$22.4 million in SNAP benefits were spent at farmers markets; many small farmers, farm workers, and their families are beneficiaries of SNAP, meaning they would be hit doubly hard.

Discuss how the rule will

- **Hurt farmers' ability to make enough to stay afloat.** Many farmers operate on incredibly slim margins; for many farmers, federal dollars from programs like SNAP and the resulting matching programs (which provide additional public or private funds for SNAP participants to spend at farmers markets) are critical. The loss of revenue from customers who use federal nutrition program dollars and thus also publicly and privately funded matching programs would strip farmers of income under this rule.
- **Diminish our nation's ability to harvest food.** Immigrants are a pivotal part of the nation's agricultural labor force; increased fear and loss of access to critical safety net programs would mean a smaller, less healthy, and less productive work force.

States/State Agencies

Emphasize how the rule will create upstream and downstream harms to states by shifting costs to states to fill in gaps when residents are sicker and hungrier.

Discuss how the rule will

- **Harm the state economy** — SNAP supports the economy; every \$1 spent in SNAP benefits generates \$1.73 throughout the economy. Lower participation in SNAP means less federal funding to support local economies and lower worker productivity. Families who are stripped of federal assistance will still need assistance with food and other basic needs, meaning additional costs for states. In the wake of eliminating SNAP eligibility for many legal immigrants after the 1996 welfare law change, several states invested state dollars to meet part of the resulting need for food assistance; those stop-gap measures proved to be neither comprehensive nor sustainable in the long run. States and localities should not have to bear the costs of federal withdrawal of assistance to people who depend on safety net and public benefit programs to live.
- **Harm job creation.** When individuals forgo SNAP assistance, states are stripped of millions of dollars in federal funding that not only could pay for food

to nourish infants, students, seniors, veterans, and working families, but also could create jobs in food retail, transportation, and agricultural sectors.

College Stakeholders

Emphasize how important SNAP is to education, learning, and health and how this rule will increase rates of hunger, poverty, and poor health among immigrant students and their families. Focus on the importance of SNAP in addressing hunger and food insecurity among college students. For instance, how SNAP is a critical source of support for struggling students; proper nutrition is critical to individual students and to the wider educational environment.

Discuss how the rule will

- **Hurt college students.** SNAP is a critical resource for the many college students who struggle with food insecurity. Eligible students will forgo SNAP out of fear and confusion over the rule. Research shows how SNAP lifts people out of poverty, reduces hunger and obesity, and improves attendance, behavior, and achievement. Proper nutrition is critical to individual college students and to the broader campus environment.
- **Harm your college and community.** School resources will be diverted to address the harms to student health and academic achievement resulting from the rule. The complicated federal rule also will generate stress and confusion among college administrators, professors, and staff due to uncertainty about whether a student's family may be impacted.

Businesses

Emphasize how SNAP dollars stimulate the economy and generate business for farmers, retailers, and food businesses of all types. Every \$1 spent in SNAP benefits generates \$1.73 throughout the economy, helping to create markets for farmers and food retail positions. Because SNAP benefits are so urgently needed by families, they are spent quickly — 97 percent of benefits are redeemed by the end of the month of issuance — thereby bolstering local economies.

Discuss how the rule will

- **Harm your business.** Provide examples of the importance of SNAP to the families that shop at your business. Explain how important SNAP is to your business model.
- **Harm the economy.** SNAP supports the economy — every \$1 spent in SNAP benefits generates \$1.73 throughout the economy and increases worker productivity. Lower participation in SNAP means less federal funding to support local economies and lowers worker productivity.

Endnotes

ⁱ 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-health-well-being.pdf>. Accessed on October 5, 2018.

ⁱⁱ Food Research & Action Center. (2017). *The Impact of Poverty, Food Insecurity, and Poor Nutrition on Health and Well-Being*. Available at: <http://www.frac.org/wp-content/uploads/hunger-health-impact-poverty-food-insecurity-health-well-being.pdf>. Accessed on October 5, 2018.

ⁱⁱⁱ Ibid.

^{iv} 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.

^v Shanafelt, A., Hearst, M. O., Wang, Q., & Nanney, M. S. (2016). Food insecurity and rural adolescent personal health, home, and academic environments. *Journal of School Health*, 86(6), 472-480.

^{vi} Nelson, B. B., Dudovitz, R. N., Coker, T. R., Barnert, E. S., Biely, C., Li, N., Szilagyi, P. G., Larson, K., Halfon, N., Zimmerman, F. J., & Chung, P. J. (2016). Predictors of poor school readiness in children without developmental delay at age 2. *Pediatrics*, 138(2), e20154477.

^{vii} 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.