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Santa Clara County and San Francisco seek preliminary injunction to block ‘public charge’ rule

Rule would do the opposite of its stated goal by harming the country’s health, welfare and economy

SAN FRANCISCO (Aug. 28, 2019) — Santa Clara County Counsel James R. Williams and San Francisco City Attorney Dennis Herrera today filed a joint motion for a preliminary injunction prohibiting the U.S. Department of Homeland Security (DHS) from implementing or enforcing its new “public charge” rule.

The new rule is slated to take effect October 15, 2019. If allowed to do so, it would radically broaden the criteria that allow DHS to deny someone admission to the country or legal permanent residence (i.e., a green card). The rule effectively institutes a wealth test for immigration and penalizes poorer immigrants by making the receipt of even small amounts of public benefits, like food stamps or Medicaid, grounds to disqualify someone from admission or securing a green card. The rule change specifically targets legal immigrants; undocumented immigrants already don’t qualify for these federal benefits.

“This Trump administration rule is an attack on all immigrants, including those who have carefully followed every aspect of federal immigration law. It is illegal, and today we ask the courts to block it from ever taking effect,” said Williams. “Every family in our community is harmed when immigrants and their families are deterred from accessing basic health and safety services that keep us all healthy and support our communities’ well-being. We will not allow the Trump administration to unilaterally overrule Congress and over a century of precedent.”

“This rule would upend the American dream,” Herrera said. “This nation was built by hard-working immigrants, many of whom came here with the clothes on their backs and little else. We are not going to let the Trump administration rewrite the poem on the Statue of Liberty. Yearning to breathe free is not a privilege only for the wealthy. Shutting the door on low-income immigrants is simply un-American. Individuals who come here with nothing could be [the co-founder of the next Intel, or the creator of the next Sugar Bowl Bakery.](#)”

DHS's new rule on "Inadmissibility on Public Charge Grounds," announced August 12, 2019, attempts to abolish nearly 140 years of legal precedent. It radically expands the reasons someone can be deemed to be a "public charge." For decades, "public charge" meant an individual who is "primarily dependent" on the government for survival. And the assessment of whether someone was a public charge was based on two kinds of public aid: long-term institutionalization or direct cash assistance for subsistence. The new rule unlawfully broadens the benefits considered to include health benefits like Medicaid and food stamps in a total amount as low as 50 cents a day.

By design, the rule coerces individuals to forgo or withdraw from critical benefits and care. DHS itself projects that the rule will cause 2.5 percent of the noncitizens participating in the targeted programs to stop using them--but this projection grossly underestimates the number of people who will be harmed. It also doesn't reflect the broader "chilling effect" the rule is having by spreading fear and misinformation.

For example, many people who live with noncitizens, unclear about the rule's impact, will forgo benefits that aren't even covered by the rule out of fear of the immigration consequences to themselves and their loved ones. Indeed, in response to earlier drafts of the rule, many people already have. [A recent Urban Institute study](#) found that one in seven adults in immigrant families (13.7 percent) reported chilling effects from the proposed rule, in which the respondent or a family member did not participate in a government benefit program in 2018 for fear of risking future green card status. This chilling was observed in families with various mixes of immigration and citizenship statuses, including families where all foreign-born members were naturalized citizens.

The price for this policy change will be paid by society as a whole:

- Reduced access to health care services will increase the risk of communicable diseases and other public health threats, like measles and tuberculosis.
- Santa Clara and San Francisco Counties will lose millions of dollars in federal Medicaid reimbursement funds while public health care costs increase. For example, San Francisco alone is expected to lose at least \$7.5 million in Medicaid reimbursement funds. At the same time, taxpayer-funded health care costs will rise as people forgo preventative care and then wind up in the emergency room with more serious, and more expensive, medical conditions.
- Food stamp assistance helps fuel local economies, with the money flowing through shops and grocery stores to their suppliers, owners and employees. According to a U.S. Department of Agriculture study, every dollar issued to a SNAP recipient results in \$1.79 in local economic activity. Santa Clara and San Francisco's economies could lose millions a year from people forfeiting food assistance.

"Individual health, public health, and our economic health would all suffer if this patently unlawful rule is allowed to stand," Herrera said.

The case is: *City and County of San Francisco and County of Santa Clara v. U.S. Citizenship and Immigration Services et al.*, U.S. District Court for the Northern District of California, 4:19-cv-4717, filed Aug. 13, 2019. Additional documentation from the case is available on the Santa Clara County Counsel's

public charge website: www.sccgov.org/publiccharge or on the San Francisco City Attorney's website: www.sfcityattorney.org.

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About the Office of the County Counsel

The Office of the County Counsel serves as legal counsel to the County, its Board of Supervisors and elected officials, every County department and agency, and the County's boards and commissions. With a staff of over 200, the Office is also responsible for all civil litigation involving the County and its officers. Through its Social Justice and Impact Litigation Section, the Office litigates high-impact cases, drafts innovative local ordinances, and develops policies and programs to advance social and economic justice. The Section also defends the County in select cases with the potential to significantly affect the County's ability to provide critical safety net services to vulnerable residents. The Section is part of a growing movement to use the power and unique perspective of local government to better serve the community and to drive long-lasting change at the local, state, and national levels.

About the County of Santa Clara, California

The government of the County of Santa Clara serves a diverse, multi-cultural population of 1.9 million residents – more populous than 14 states. With a \$8.1 billion annual budget, dozens of departments and agencies, and over 20,000 employees, the County provides essential services to its residents, including public health protection, environmental stewardship, medical services through the County of Santa Clara Health System, child and adult protection services, homelessness prevention and solutions, roads, park services, libraries, emergency response to disasters, protection of minority communities and those under threat, access to a fair criminal justice system, and many others.

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