



IMMIGRANTS RIGHTS' UPDATES

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AGENDA

- **Welcome** – Shiu-Ming Cheer
- **Update on DACA cases** – Josh Rosenthal
- **Changes to “Public Charge” Definition** – Jackie Vimo
- **Q&A**
- **Muslim Ban Supreme Court Hearing** – Avidah Moussavian
- **Tennessee Worksite Raid** – Stephanie Teatro
- **Q&A**

DACA CASES

WHAT EXISTING DACA RECIPIENTS SHOULD DO NOW

- There are 10 ongoing lawsuits that are challenging the termination of the DACA program, all at various stages.
- Due to two court orders — in *Regents of the University of California, et al. v. DHS* and *Batalla Vidal v. Nielsen* — **USCIS is currently accepting DACA renewal applications.** Anyone who has had DACA in the past may apply, although those whose DACA expired on or before Sep. 4, 2016, must file as if they were applying for the first time.
 - So far, we've heard that applications are getting processed and approved in 4-6 weeks.
- In addition, due to a separate court order in *CASA de Maryland v. DHS*, the government may not use the information DACA recipients provided the government against them for deportation purposes.

QUARTERLY REPORT

- In addition, as a part of the court's order in the *Regents* case, USCIS has to provide a quarterly report on statistics of DACA renewals.
- They published their first Quarterly Report on April 2.
- Some statistics:
 - 31,860 DACA requests have been approved for applications USCIS received on or after January 10th. In total, 55,125 individuals have been granted DACA between January-March of this year (this includes 45,416 renewal applicants and 9,709 initial applicants) (See Dkt 072 Ex. A)
 - This year, 3,929 DACA requests have been denied, but only 70 of those denials were for applications that USCIS received on or after January 10th.

QUARTERLY REPORT

- **Some statistics, cont'd:**

- There are currently 693,850 individuals with active EADs through DACA through 2020 (with 54,850 individuals set to expire in 2020).
- There's currently 9,160 renewals pending from individuals with expired DACAs.
- Half of all DACA recipients whose expiration dates are in April currently have a renewal application pending, but close to 60% of DACA recipients whose EADs expire in May and 70% of the recipients with expiration dates in June have yet to apply.



PUBLIC CHARGE

BACKGROUND:

PUBLIC CHARGE

“Public Charge” is a term used by U.S. immigration officials to refer to a person who is considered likely to become primarily dependent on the government for subsistence.

An immigrant who is found likely to become a “public charge” may be denied admission to the U.S. or lawful permanent resident status.

- *Historically*, deportation based on public charge has been rare.

WHAT BENEFITS ARE CONSIDERED?

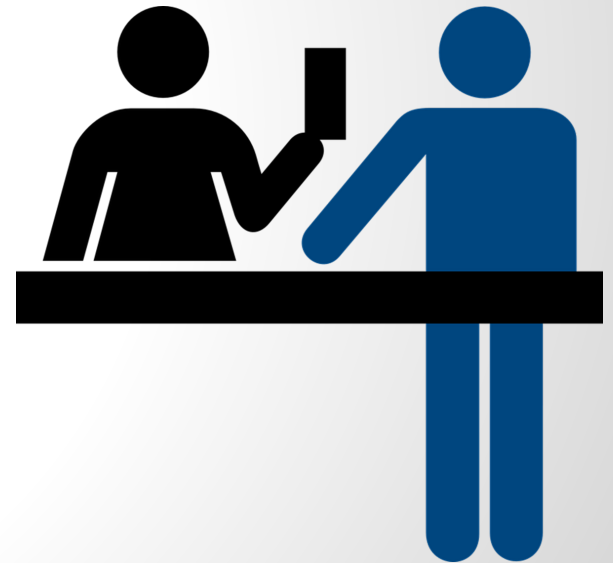
Currently, determination is based on assessment of all relevant factors, and only two types of benefits are currently considered in public charge determination:

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

WHEN IS PUBLIC CHARGE ASSESSED?

A public charge assessment is made:

- When a person **applies to enter** the U.S. or
- **Applies to adjust status** to become a Lawful Permanent Resident (LPR), *NOT when applying to become a U.S. citizen*



PUBLIC CHARGE FACTORS

- **TOTALITY OF THE CIRCUMSTANCES TEST**

Officer to look at applicant's:

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

THINGS TO KEEP IN MIND

EXEMPTIONS

- Certain immigrants, including refugees, asylees, survivors of trafficking, domestic violence and other serious crimes, and others are not subject to the “public charge” test nor are people applying for U.S. citizenship.

FORWARD-LOOKING

- The decision is forward-looking and can't be based only on what happened in the past.

RECENT CHANGES: **FOREIGN AFFAIRS MANUAL** **(FAM)**

FOREIGN AFFAIRS MANUAL (FAM) CHANGES

Officials in U.S. embassies and consulates abroad use the FAM to make decisions about whether to grant non-U.S. citizens permission to enter the U.S.

Major changes published on January 3, 2018:

- Receipt of non-cash benefits in the past or present may be considered as part of totality of circumstances test
- Shifts focus from sponsor to applicant or family members
- Sufficient affidavit of support merely one positive factor

NOTE: ONLY impacts people seeking to enter the U.S. from abroad

FOREIGN AFFAIRS MANUAL (FAM) CHANGES

Current and potential impact of the FAM guidance

- To date, only 1-2 reports of consular denials due to changes
- Possible that applicants could be refused if unemployable, retired, and/or disabled.

Limitations on harm

- Forms have NOT changed
- Practically, difficult to find out about use of public benefits by family members in US
- Language is confusing and consular officers still have discretion

PUBLIC CHARGE:
NOTICE OF PROPOSED RULEMAKING
(NPRM)

PUBLIC CHARGE PROPOSED RULE

Exclusive: Trump's draft plan to punish legal immigrants for sending US-born kids to Head Start

Or getting insured through the Children's Health Insurance Program, or getting assistance to heat their homes.

By Dara Lind | dara@vox.com | Updated Feb 8, 2018, 7:37pm EST

f   SHARE



**DRAFT Notice of
Proposed Rulemaking
(NPRM) leaked to the
press on
February 8, 2018**



**BECOME A
FASTER**

This is the most a
way to switch car
a...

Ad WestatGov

PUBLIC CHARGE PROPOSED RULE

LAW passed by
Congress, signed by
the president

REGULATION
adopted by agency,
after public
comment

POLICY
adopted by
agency

Must be
consistent
with the LAW

Important parts of the law cannot be changed by regulation:

- Public charge is NOT a factor when applying for citizenship
- The balance of factors has to be considered
- Some categories of immigrants are exempt

DRAFT PROPOSED RULE: CONTENT

- **DHS/USCIS allow to consider a much broader array of services and benefits in the public charge determination.**

Leaked draft includes:

- Health programs like Medicaid, CHIP and ACA Marketplace subsidies/tax credits
 - Nutrition programs like SNAP and WIC
 - Housing assistance
 - Energy assistance (LIHEAP)
 - Transportation services
- **Benefits received by dependents** – including citizen children – may be considered

DRAFT PROPOSED RULE: CONTENT

Certain benefits likely EXEMPT from consideration in the public charge determination including:

- “Earned” benefits connected to work or military service (SSDI, veteran’s benefits, unemployment, worker’s comp)
- Medicare
- Emergency and disaster assistance

DRAFT PROPOSED RULE: CONTENT

Rule not retroactive

- Noncash benefits used before a public charge rule is finalized are not likely to be used as a factor in a public charge determination for an individual or family member.

Certain heavily weighted factors

- **Positive** – Includes being of employable age and/or working with income and assets of at least 250 FPL
- **Negative** – Includes receiving public benefits for a total of more than six months during the two years before seeking admission or LPR status

EXAMPLE: ANGIE

Angie is a 32 year old single mother with four children. She wants to become a lawful permanent resident (green card holder)

- Recently completed her nursing degree and is working for a hospital
- Sister sponsored her to come to the US
- US Citizen Kids received Medicaid and SNAP (Food Stamps) while she was in school



EXAMPLE: ANGIE

Negative factors

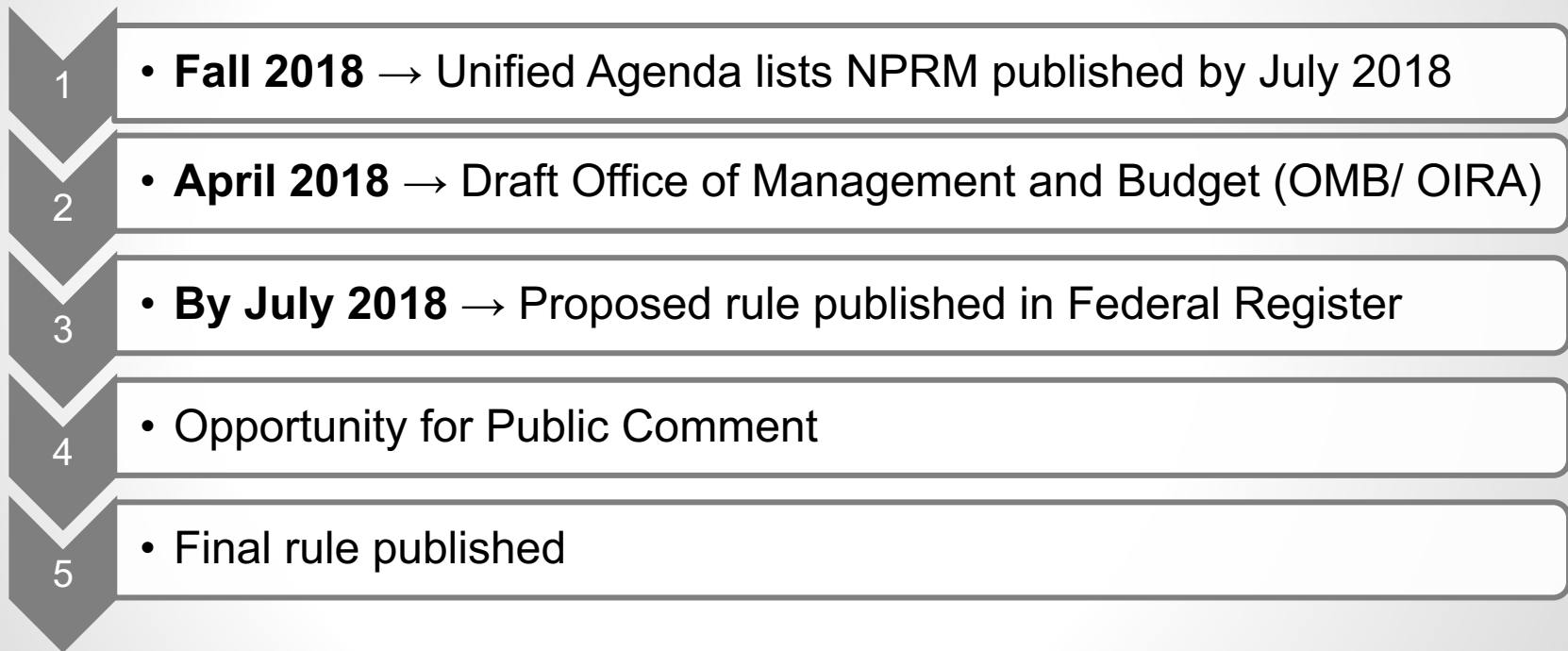
- Supports a large family
- Children received Medicaid and SNAP



Positive Factors

- Working age
- Good health
- Has a job
- Skills are in demand
- Has a sponsor

PROPOSED RULE: TIMELINE



PUBLIC CHARGE: **MESSAGING AND FIGHTING BACK**

PUBLIC MESSAGING

- UNDEMOCRATIC end-run around Congress
- Radical change of our national immigration system
- Current laws ALREADY bar immigrant access to benefits
- Bad for public health and our economy
- Forces parents to decide between obtaining a permanent immigration status or providing for children
- Harms CHILDREN and future generations

MESSAGING TO IMMIGRANT FAMILIES

MESSAGE POINTS

- The rules for immigrants who apply for a green card in the U.S. (who are not processed abroad) **have not changed**.
- Many families are **not subject to public charge**
- Public charge test considers **totality of the circumstances**.
 - Families need to make *individual determinations* based on their situation.
 - Using health care and nutrition benefits can help you be stronger, healthier and less likely to be dependent on the government
- For **individuals currently receiving public assistance**, there may be **no advantage to terminating benefits** at this time.

STRATEGIES TO RESPOND

BEFORE the Proposed Rule is Published

- Educate your networks to fight the chilling effect and prepare them to fight back (*draft emails and info sheets available!*)
- Talk to policymakers and urge them to oppose changes
- Map out coalitions and groups you can work with to fight back
- Identify individuals who may be willing to share their story publicly

AFTER the Proposed Rule is Published

- Join efforts to submit public comments: organizational and individual
- Educate and advise immigrant families

STORY GATHERING

WHY: We want to work with individuals and families to help them tell their stories for public education, to inform advocacy materials, and to highlight the harm of the proposed rule to elected officials, agency staff, and media outlets.

HOW: send a short email to Kat Lundie at lundie@nilc.org with the subject line “Protecting Immigrant Families Story.” Please provide the following information:

- **First name** of the person whose story would be shared; their city, state, and email address (if available); and a phone number at which we can contact you or the person for follow-up.
- **Why** access to public programs or benefits is essential to this individual and/or their family.
- A **brief summary** of the family’s immigration story

PROTECTING IMMIGRANT FAMILIES, ADVANCING OUR FUTURE:

THE CAMPAIGN



WORK OF THE CAMPAIGN

Building a network

United public opposition

Advocating for public policy

Research

Communication Strategy

WORKGROUPS

Federal Advocacy

Policy and Legal Analysis

Research

Communication

Education and Mobilization

STRATEGIES TO RESPOND

EDUCATE immigrant families to fight the chilling effect

TALK TO policymakers to urge them to oppose the changes

SUBMIT public comments for NPRM

DOCUMENT the harm

GET INVOLVED!

Bit.ly/pifcampaign

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www.nilc.org



MUSLIM BAN

FIGHTING TRUMP'S MUSLIM BAN





- **4/25/18: *Trump v. Hawai'i* goes to the Supreme Court**
- **What's at stake?**
 - Muslim Ban 3.0
 - Targets most nationals from six Muslim-majority countries – Chad, Iran, Libya, Somalia, Syria and Yemen – and North Korea, plus government officials from Venezuela
 - It's *permanent*
 - It's *fully in effect since December 4, 2017*



- **What are the arguments?**
 - The intent is clear: this is a Muslim Ban
 - It's unconstitutional (violates First Amendment Establishment Clause)
 - It's an unlawful exercise of executive authority (violates federal immigration law)

- **How to stay involved?**

- Understand links between Muslim Bans and our bigger fight
- Participate in the Digital Week of Action
- Join the 4/25 rally outside the Supreme Court
- Endorse and promote the rally
- Visit www.NoMuslimBanEver.com



TENNESSEE WORKSITE RAID

APRIL 5TH: RAID IN BEAN STATION, TN

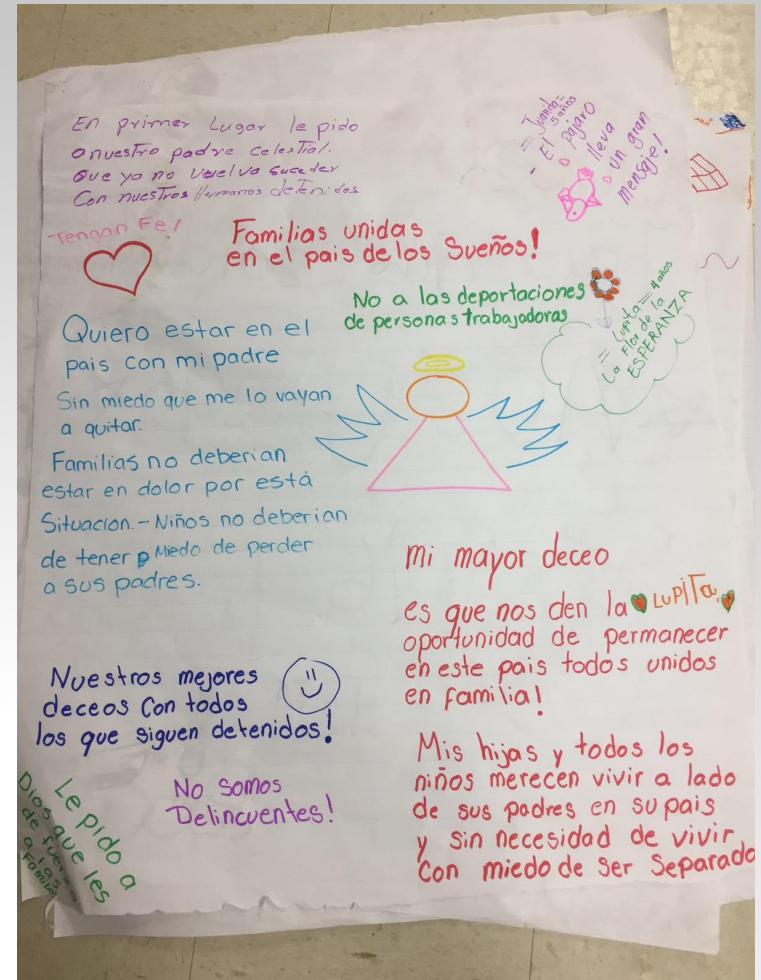


**-Meat processing
plant in rural TN**

- 97 workers arrested:**
- 54 in immigration detention**
- 32 released, in removal
proceedings**
- 11 on state and federal
charges**

IMPACT

160+ children with a parent arrested
554 children missing from school
350+ powers of attorney drafted
for 750+ children



RAPID RESPONSE

- Community-based rapid response
- Legal defense
- Donations and support
- Community education and defense
- Family and community organizing



SUPPORT NEEDED & WHAT'S NEXT

Sign and share petition

Donate to support organizing work and families

www.tnimmigrant.org/BringThemHome

Pro-bono attorneys

National sign-on letters

Demands and deportation defense

Spread the word

Toolkits and resources



RESOURCES

- **MUSLIM BAN 3.0: Trump's Latest Muslim Ban Makes Its Way to the Supreme Court**, <https://www.nilc.org/2018/04/02/latest-muslim-ban-on-its-way-to-scotus/>

Protecting Immigrant Families Campaign Resources:

- [**Fact sheet**](#) on proposed changes to public charge (we'll be updating this soon based on the leaked NPRM draft)
- [**Fact sheet**](#) on changes to the Foreign Affairs Manual (FAM)
- Updated guide on “[**Things to Keep in Mind When Talking with Immigrant Families**](#)” in light of the leaked NPRM and the changes to the FAQ
- Questions or to share stories: [**publiccharge@nilc.org**](mailto:publiccharge@nilc.org)

RESOURCES

- Chart identifying lawsuits challenging DACA's termination: <https://www.nilc.org/wp-content/uploads/2018/04/Cases-Challenging-DACA-Termination-2018.pdf>
- USCIS announcement regarding its acceptance of DACA renewal applications: <https://www.uscis.gov/humanitarian/deferred-action-childhood-arrivals-response-january-2018-preliminary-injunction>
- Dream Act 2017: Summary and Answers to Frequently Asked Questions: www.nilc.org/dream-act-2017-summary-and-faq/
- 2017 Legislation to Protect DACA Recipients/Immigrant Youth: <https://www.nilc.org/issues/immigration-reform-and-executive-actions/dreamact/daca-related-2017-legislation/>

QUESTIONS?

**National Immigration Law
Center**

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