

C O U N T Y A D M I N I S T R A T O R



SUSAN S. MURANISHI
COUNTY ADMINISTRATOR

October 25, 2017

Honorable Board of Supervisors
Administration Building
1221 Oak Street, Room 536
Oakland, CA 94612

Dear Board Members:

**SUBJECT: AMENDMENTS TO THE 2017 ALAMEDA COUNTY LEGISLATIVE PLATFORM
ADOPTING POSITIONS ON LEGISLATION – FEDERAL “PUBLIC CHARGE”
DEFINITIONS AND REGULATION**

RECOMMENDATION

Amend the County’s 2017 Legislative Platform to include the following recommendations made by your Board’s Personnel, Administration, and Legislation (PAL) Committee at its October 16, 2017 meeting:

Oppose any amendments to the “Public Charge” definition as well as opposing any changes in enforcement of the current rules related to “public charge”.

DISCUSSION

Oppose any amendments to the “Public Charge” definition, interpretation and rules enforcement.

“Public Charge” has been a component of federal immigration law and regulation for more than a century as a ground for inadmissibility to and deportation from the United States. The United States Citizenship and Immigration Services (USCIS) defines “public charge” as an individual who is likely to become “primarily dependent on the government for subsistence, as demonstrated by either the receipt of public cash assistance for income maintenance, or, institutionalization for long-term care at government expense.” Under Section 212(a)(4) of the Immigration and Nationality Act (INA), an individual seeking admission to the United States or seeking to adjust status to that of a permanent residence (green card) is inadmissible if the individual, "at the time of application for admission or adjustment of status, is likely at any time to become a public charge." Such an individual is inadmissible unless the individual’s sponsor executes an affidavit of financial support. The government reserves the right to enforce it and require reimbursement from the sponsor for the benefits received.

A draft executive order (DEO), circulated on January 31, 2017, would require the Department of Homeland Security (DHS) and the State Department to establish new standards and regulations for determining when potential and current immigrants become subject to the “public charge” grounds of inadmissibility and deportability. Specifically, the order directs agencies to: a) deny admission to any immigrant who is likely to become a “public charge”; b) identify and remove, as expeditiously as possible, any immigrant who has become a “public charge” and is subject to removal; and, c) seek reimbursement from all sponsors of immigrants for the costs of Federal means-tested public benefits provided to sponsored immigrants. To accomplish this the DEO substantially expands the definition of “public charge” consideration to include *any* “means tested public benefits for which eligibility or amount is determined on the basis of income, resources, or financial need.” The order specifically mentions new agency reporting requirements of immigrant receipt of Supplemental Nutritional Assistance Program (SNAP), Medicaid, and Social Service Block Grant (SSBG)

programs, none of which are considered “cash assistance” under current law. Additionally, the DEO directs that the Child Tax Credit be only available to tax filers with a Social Security Number.

Many public programs that support individuals and families of all incomes, with no regard to immigration history or status, have “eligibility or benefit level determinations made on the basis of income, resources, or financial need.” Programs ranging from disaster recovery, disease control, and even indigent defense could be impacted. The impact of past receipt of any such benefits is uncertain under the DEO. Denying non-citizen individuals and families the possibility of legal permanent residence, or threatening their deportation for previous use of permissible means-tested programs, undermines the very fabric of a support network and a healthy community.

The implied danger of including current and past recipients of federally-funded means-tested programs in the ever-increasing population of “eligible for deportation” is of grave concern to family and community well-being and public safety. A qualitative study recently conducted by the Bay Area Regional Health Inequities Initiative and the Public Health Alliance of Southern California surveyed staff throughout California Public Health Departments in an attempt to assess the impact of the political environment on immigrant client well-being. Of respondents in Northern California, 25% reported witnessing or hearing about drops in program utilization or participation due to new immigration and refugee policy, enforcement, and even public discussion or rumors on the topic, since the elections of November 2016. Even without action on any specific policy, 56% of respondents noted that clients are afraid to continue or sign up for public programs or services, and more than half noted increased fear, stress, and mental health challenges. Even if there is currently little potential harm to the immigrant client in accessing public services, the fear elicits harm through diverting individuals and families from the support they need. Recent examples include women who refuse to report sexual assault or trafficking; families who fail to open the door or heed rescue workers in flood or fire areas thereby imperiling themselves and the rescuers through delay to more perilous circumstances; and finally folks who avoid medical care for contagious diseases such as hepatitis A or HIV; all for fear of deportation and all incidents that impact the health and safety of the general community as well as the immigrant individuals/families.

Expansions of the “public charge” definition could come about through an Executive Order, a rule from the Department of Homeland Security, or, to a lesser degree, from the Attorney General’s review of Board of Immigration Appeals decisions. Because these proposed changes threaten the health, security and safety of individual residents as well as the County community at large, Supervisor Wilma Chan and Lori A. Cox, Director, Social Services Agency recommended to PAL an oppose position on any expansion of the current law, definition, regulation, and enforcement of “public charge” regulations in any venue or regulatory action in which expansion or amendments are proposed. PAL recommends an OPPOSE position.

We will continue to work with our federal legislative advocates to monitor and inform your Board on these matters.

Very truly yours,



Susan S. Muranishi
County Administrator

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cc: Affected County Agencies/Departments
CAO Analysts
State and Federal Legislative Advocates