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COMMUNITY GROUPS IN NEW YORK CITY FILE NEW “PUBLIC CHARGE” LAWSUIT OVER TRUMP IMMIGRATION RULE

Litigation seeks a permanent injunction to block rule from taking effect, and marks the sixth lawsuit to be filed across the nation

August 27, 2019, New York – Community organizations [filed a lawsuit](#) today in the United States District Court for the Southern District of New York (SDNY) seeking to block the Trump administration’s proposed “public charge” rule before it takes effect on October 15, 2019. The organizations, Make the Road New York, African Services Committee, Asian American Federation, Catholic Charities Community Services, and Catholic Legal Immigration Network (“CLINIC”), are represented by The Legal Aid Society, the Center for Constitutional Rights, and Paul, Weiss, Rifkind, Wharton & Garrison LLP. If the rule takes effect, it will vastly expand the government’s ability to deny permanent status to immigrants who have relied on certain public benefits.

The rule is the Trump administration's attempt to illegally upend legal immigration in this country. Attorneys say the rule will not only tear families apart but will also result in broad community consequences as people forgo critical benefits, such as healthcare, out of fear of jeopardizing their long-term ability to remain in the country.

Attorneys say the rule will not only tear families apart but will also result in broad chilling effect and disastrous community consequences as people forgo critical health and survival benefits for themselves and their loved ones, including benefits that the new rule does not currently reach, out of fear of jeopardizing their long-term ability to remain in the country.

The lawsuit argues that the rule, violates the Administrative Procedure Act, and the Equal Protection and Due Process Clauses of the Constitution because it is motivated by animus towards immigrants of color and is intended to disproportionately affect immigrants from countries with primarily non-white populations. The complaint cites numerous comments by Mr. Trump and administration officials involved in drafting the rule demonizing immigrants of color and arguing that they should be denied assistance.

As the complaint alleges, the administration's new, expansive definition contradicts the long-standing statutory definition of a public charge as limited to an individual who is *primarily* dependent upon public support, a definition that has been in effect for over 100 years and which Congress has repeatedly declined to revise.

"As a survivor of ovarian cancer, access to medical care was critical to save my life. If this public charge rule had gone into effect eleven years ago when I was applying for my green card, I would have been forced to choose between my health or remaining with my family in the U.S. This inhumane change punishes working class families like mine for feeding our children, accessing crucial healthcare services and keeping our families together—all because we're not white and wealthy," said **Blanca Palomeque, member of Make the Road New York, an organizational plaintiff in the case.**

Javier H. Valdés, Co-Executive Director of Make the Road New York, said, "We won't stand idly by as this administration tries to turn our family-based immigration system into a cruel, racist wealth-based system. If this reckless public charge rule goes into effect, immigrants in our communities will suffer as families renounce survival services and programs, fearing that their family could be ripped apart. As we proceed with this suit against the Trump administration, we will continue educating the thousands of families that walk through our doors of their rights and standing up with them to ensure access to vital services."

"New York City is home to 3.1 million immigrants who came here to make a better life for themselves and their families," said **Janet Sabel, CEO and Attorney-in-Chief of The Legal Aid Society**. "As the City's oldest and largest legal provider for low-income communities, we know that many immigrant families are eligible for and use government benefits to supplement low-wage work as they move up the ladder of economic success. We will not allow the Trump Administration to punish our clients and all immigrant New Yorkers by weaponizing the safety net that is there for all of us in hard times. We look forward to challenging the administration's

racist and xenophobic rule so that our low-income clients can continue to become permanent residents just like so many generations have been able to do in the past.”

“This rule, inspired by wish lists generated in far-right, nativist think tanks, undermines almost a century of Congressional mandate to prioritize family-based immigration,” said **Ghita Schwarz, Senior Staff Attorney at the Center for Constitutional Rights.** “It is clearly intended to fulfill the dreams of President Trump, Steven Miller, and Ken Cuccinelli to make immigration benefits available only to ‘people coming from Europe.’”

“This cruel and callous revision is yet another example of this administration’s racist mission to undermine the very ethos of this country as a safe haven for immigrants and their families,” said **African Services Committee’s Director of Advocacy, Amanda Lugg.** “We have clients consulting their case managers as to whether they should stop taking their HIV medication and others who have refused lawfully-entitled housing assistance in the belief that this will ensure their eligibility to reunite their families. Such scenarios call to attention the catastrophic public health implications that this rule threatens to create, undoing hard won progress toward ending the HIV/AIDS epidemic in the U.S. and here in New York State. Unfairly, and against the public interest, many individuals living with chronic health conditions will be asked to choose between their own health and welfare, and their legal right to family reunification.”

“Even in the face of overwhelming rejection of this rule by immigrant advocates, legal service organizations, and child welfare groups across the country, DHS has nevertheless decided to move forward with the public charge rule,” said **Jo-Ann Yoo, Executive Director, Asian American Federation (AAF).** “The intention of this rule is to hold back countless low-income and working-class families from living full, healthy lives as they strive to make a place for themselves and their families in this country. In the pan-Asian American community in New York City, we’ve already seen scores of low-income immigrants disenroll from the benefits that they use on day-to-day. We’re joining this lawsuit to STOP this rule from exacerbating the poverty, housing and food insecurity, and xenophobia that is already afflicting our communities.”

“The public charge rule is not a thoughtful clarification of immigration law, but a discriminatory wealth test designed to do only one thing – deport as many immigrants as possible, no matter how lawful their status,” said **City Council Member Carlos Menchaca, Chair of the Committee on Immigration.** “We must bring this issue before the courts because it is clear the Trump Administration lacks the legal expertise to faithfully execute the intent of Congress on immigration matters. Like many times before, I expect the courts to side with experts, and I thank Make the Road New York, The Legal Aid Society, and the Center for Constitutional Rights for standing against this vile rule.”

“We have joined this lawsuit because we agree with our fellow plaintiffs that the Administration’s proposed changes to the public charge rule will unfairly hurt New York’s newcomers, be they families who are reuniting, workers who contribute their talent and skill, or vulnerable residents who seek a new home,” said **Monsignor Kevin Sullivan, Executive Director of Catholic Charities, New York.** “We had hoped that our objections to this rule would have been heard by this Administration. But as a leader in providing legal services to

these communities we also understand that we must turn to the courts to protect these fundamental rights.”

“For generations, the American Dream was sold to the world as a reward for hard work and determination in this country,” said **City Council Member Francisco Moya**. “Nothing has been so lionized by conservatives as the ‘pull yourself up by your bootstraps’ trope. And yet, perhaps no group embodies that phrase better than immigrants, who work some of the most demanding and thankless jobs that fuel our economy all so they can support their families and get a shot at the Dream. The addition of a ‘wealth test’ to the public charge rule is further proof of the Trump administration’s hypocrisy and bigotry and proof that its lamenting over illegal immigration was nothing more than a crude head fake. This White House’s white nationalist agenda has always been about ending *legal* immigration. We must continue to fight the public charge rule change and this anti-immigrant agenda at every turn and at any cost.”

“With this lawsuit, we’re coming together and saying enough to 45’s unchecked war on immigrants and working class immigrant families. No one will mess with our neighbors. Not even the President of the United States,” said **State Senator Jessica Ramos**.

“The final public charge rule issued by DHS is yet another disgraceful blow to immigrant communities by the Trump administration, and is a thinly-veiled attack on the Latino community, and other immigrant communities of color. I stand behind and support the litigation filed by Make the Road NY, The Legal Aid Society and the Center for Constitutional Rights, which seeks to protect immigrant families from this racist and classist witch hunt,” said **Assemblymember Catalina Cruz**.

BACKGROUND

The “public charge” rule seeks to redefine the term “public charge” to someone who is likely to receive—even temporarily—any amount, however minimal, of a wide range of cash and non-cash public benefits. Disqualifying benefits include programs that provide housing assistance, food assistance, and healthcare. The Trump administration rule also seeks to include many negative factors in determining who may be deemed a public charge, such as English fluency, old age, lack of credit score, and even being disabled. Those deemed a public charge will be denied permanent status.

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The Legal Aid Society exists for one simple yet powerful reason: to ensure that New Yorkers are not denied their right to equal justice because of poverty. For over 140 years, we have protected, defended, and advocated for those who have struggled in silence for far too long. Every day, in every borough, The Legal Aid Society changes the lives of our clients and helps improve our communities. <https://www.legalaidnyc.org>

The Center for Constitutional Rights works with communities under threat to fight for justice and liberation through litigation, advocacy, and strategic communications. Since 1966, The Center for Constitutional Rights has taken on oppressive systems of power, including structural racism,

gender oppression, economic inequity, and governmental overreach. Learn more at ccrjustice.org. Follow the Center for Constitutional Rights on social media: [Center for Constitutional Rights](#) on Facebook, [@theCCR](#) on Twitter, and [ccrjustice](#) on Instagram.

[Make the Road New York](#) (MRNY) builds the power of immigrant and working class communities to achieve dignity and justice through organizing, policy innovation, transformative education, and survival services. We have 23,000+ members and operate five community centers in Bushwick, Brooklyn; Jackson Heights, Queens; Port Richmond, Staten Island; Brentwood, Long Island; and White Plains, Westchester County. On Twitter: [@MaketheRoadNY](#)