

Factsheet for EO 12866 Meeting on DOJ's Public Charge Regulation (RIN 1125-AA84)

Refugee groups ask that OMB take the following action regarding DOJ's public charge regulatory processing:

1. At minimum, humanitarian populations (e.g., refugees, asylees, victims of trafficking, torture survivors, unaccompanied children, Special Immigrant Visa holders (SIVs), Cuban/Haitian entrants, and Amerasians) should be exempt from this rulemaking.
2. While the DHS public charge rule is being litigated and currently under a nationwide injunction, the DOJ rulemaking process should be suspended until a resolution to the court cases.
3. OMB should ensure that DOJ complies with EO 12866's requirement to conduct a robust regulatory impact analysis (RIA) for an economically significant rule.

Humanitarian Populations Should Be Exempt

Humanitarian populations deserve protection - not deportation.

- By definition, refugees are persecuted and vulnerable--on the basis of research conducted by the Center for Victims of Torture, the Office of Refugee Resettlement estimates that as many as 44% of refugees, asylees and asylum seekers are torture survivors. Refugees incur the highest fiscal cost in the immediate years following arrival and resettlement, as they have had to flee their home with little to nothing, often spend years or decades living in camps without access to work or income.
- The limited funding they receive upon resettlement in the U.S. is designed to help them achieve self-sufficiency and integration as soon as possible, which most refugees do.
- The rule would consider deporting those whose difficulties started before arrival in the U.S., but for refugees, these problems may stem from the very nature of their refugee status, and it is difficult to determine when a condition began.
- The rule will have a significant chilling effect on refugees and other humanitarian populations. Fear surrounding this change will likely result in refugees un-enrolling in critical benefits which help them successfully integrate. The last time the definition of public charge was expanded, for example, refugee use of benefits [fell drastically](#) even though they were still eligible: food stamps fell by 60%, TANF by 78% and Medicaid by 39%. The proposed rule will result in families choosing between forgoing critical nutritional, medical, or educational assistance for their families.
- Torture treatment providers have witnessed this chilling effect already in the context of the recent public charge inadmissibility rule, and that rule *exempts* refugees and asylees. When torture survivors--many of whom are suffering profound psychological and physical damage--withdraw from or refuse benefits, like Medicaid, for fear of risking a forced return to torture it puts their health at risk and leads to needless economic waste (e.g., survivors stop going to their doctor, develop chronic illnesses or similarly serious health problems exacerbated by the effects of their torture, and end up in emergency rooms to address crises that have developed but could have been avoided).

Refugees drive significant economic growth and positively impact their new communities.

- Refugees [give back](#) to their new communities. They start working as soon as possible, pay taxes, start businesses, and become active members of society. The average [workforce participation](#) rate of refugees is 81.8%, above the national 62%.
- 13% of refugees were entrepreneurs in 2015, compared to just 9% percent of the U.S.-born. 40% of all Fortune 500 companies were founded by refugees, immigrants or their children.
- Refugees play an active role in civic engagement, maintain a strong devotion to education, purchase homes, and become U.S. citizens.
- Many industries, like hospitality and meatpacking, now rely heavily on refugee workers. Across the U.S., the low number of refugee arrivals is putting an unnecessary strain on businesses, especially so in rural areas.
- Refugees contribute billions in taxes to the U.S. economy, and over a 20-year-period, contribute \$21,000 more in taxes than the initial investment to resettle them. In 2015, refugees contributed \$21 billion in taxes to the U.S.
- Studies show that the \$4.8 million it costs to fund refugee service agencies ends up generating \$48 million in total economic activity, supports an average of 650 jobs in counties across the country, and generates nearly \$2.8 million in tax dollars for state and local governments.

Resettlement is a refugee's last option for safety and forcibly removing refugees could violate U.S. and international law.

- Deportability is not an option for refugees given that their reason for displacement to another country is as a direct result of fleeing violence and persecution.
- There are over 70 million displaced people in the world, with over 25 million refugees worldwide.
- Resettlement is the last resort, when refugees cannot safely return to their home country and when they cannot safely remain in the country to which they initially fled. Fewer than 1% of refugees will ever be resettled to a third country.
- Since the program's inception, the United States has resettled more than 3 million refugees.
- Deporting refugees back to harm would violate [U.S.](#) and [international law](#).

DOJ's Public Charge Regulation Process Should Be Suspended While DHS Public Charge Litigation Is Ongoing

A federal court has blocked implementation of DHS's public charge regulation.

- The order, issued by the United States District Court for the Southern District of New York in [State of New York v. Department of Homeland Security and Make the Road New York v. Cuccinelli](#), blocked the regulation from taking effect on October 15 and for the foreseeable future while this lawsuit is decided.
- The Judge ruled that the plaintiffs made compelling arguments regarding their likelihood of success on their Administrative Procedure Act and Constitutional arguments, that the regulation may violate the Rehabilitation Act, and that irreparable harm would be suffered immediately if rule goes into effect.
- Proceeding with DOJ's public charge rulemaking process would create a patchwork of federal policy - and difficulty and confusion in implementation. While the DHS public charge rule is being litigated, the DOJ rulemaking process should be suspended until a resolution to the court cases.

The Impacts on U.S. Communities Are Economically Significant

OMB should ensure that the DOJ complies with Executive Order 12866's requirement to conduct a robust regulatory impact analysis (RIA) for an economically significant rule.

The impact on refugees and immigrants is economically significant.

- The similarly proposed public charge inadmissibility regulation would have caused immigrants to lose up to \$22.6 billion in federal and state benefits (over 10 years) because they would dis-enroll from programs they are eligible for, including \$1.5 billion in federal benefits and \$0.76 billion in state benefits each year.
- DHS estimated that 382,264 applicants for lawful permanent residence would be subject to its proposed public charge test each year. This was a significant under-estimate that did not account for any chilling effects, including chilling effects on eligible U.S. citizen family members
- The DOJ rule would apply to all lawful permanent residents within their first five years of entry, would at least apply to 1,911,320 individuals, plus their family members; this would be a continuously cumulating total, with at least another 382,264 impacted each and every year, and at least 3,822,640 individuals, plus their family members, impacted over a ten year period.

The impact on state and local governments is economically significant.

- The DOJ rule would shift major costs to states, local governments, and private entities and organizations that work with immigrant communities. Immigrants who could be directly affected—such as children with green cards who are eligible for the Supplemental Nutrition Assistance Program (SNAP) or Medicaid in their first five years in the United States—would disenroll from or avoid public programs. State and local resources would be needed to replace federal program spending.
- Significant state, local, and private initiatives, funding, and manpower would be needed to address burgeoning public health crises, poorer nutrition, and increased housing insecurity.
- DOJ's proposal could force states, localities, and health and human services providers to develop new forms, processes, and/or systems to record and report information, and to spend funds and staff time educating the public and fielding questions about the rule. Allocating resources to these compliance and education efforts would immediately divert funding and personnel from other government and business efforts, decreasing the productivity of these entities overall.