



November 1, 2020

U.S. Citizenship and Immigration Services
Department of Homeland Security
20 Massachusetts Avenue NW
Washington, DC 20529-2140

Submitted via www.regulations.gov

**RE: CIS No. 2655-20; DHS Docket No. USCIS-2019-0023; RIN: 1615-AC39:
Comments in Response to Proposed Rulemaking: Affidavit of Support on
Behalf of Immigrants.**

I am writing on behalf of the New York Chapter of the Council on American-Islamic Relations (CAIR) in response to the Department of Homeland Security (DHS) Notice of Proposed Rulemaking, “Affidavit of Support on Behalf of Immigrants” which was published in the Federal Register on October 2, 2020.

CAIR is the nation’s largest Muslim civil rights and advocacy organization. CAIR-NY’s vision is to be a leading advocate of justice and mutual understanding. Our mission is to enhance the understanding of Islam, protect civil rights, promote justice, and empower American Muslims in all walks of life. In the immigration context, CAIR-NY has been on the frontlines in advocating against family separation policies, Muslim and African bans, and other systemic discriminatory policies. To reunite families, CAIR-NY has engaged in several lawsuits to challenge unlawful actions and/or unreasonable applications of certain immigration laws. New York’s Muslim community is diverse and largely consists of first- or second-generation immigrants. To achieve our mission to empower American Muslims, we mobilize, educate, and encourage civic engagement.

We strongly oppose the proposed changes to the Affidavit of Support policy. If implemented, these changes will cause confusion, fear, and ultimately deter sponsors from supporting family members’ path to a Green Card. This proposed policy is in direct opposition to our country’s commitment to supporting family reunification and supporting people’s path to Lawful Permanent Residency and citizenship.

The proposed changes will deter immigrants and U.S. citizens from accessing healthcare and nutrition benefits, and ultimately exacerbate hunger and sickness in communities across the U.S. The proposed rule would disregard sponsors’ incomes and require them to have a joint sponsor if they or a member of their household member have used public benefits — including Medicaid, CHIP, SNAP, SSI and TANF — anytime within 36 months of executing the Affidavit of Support. It is abhorrent that this administration would propose a rule during the global COVID-19 pandemic that would further exacerbate the current public health crisis that our country is tackling.

The vast majority of people affected by this proposed rule are U.S. citizens. Eighty-four percent of family-based immigrants are sponsored by U.S. citizens.¹ A recent study revealed that approximately 43 to 52 percent of U.S. born people participated in at least one of these programs in a 20-year period from 1997-2017.² The rule directly penalizes families for using public benefits that they are not only legally entitled to, but also that provide vital support for a majority of U.S. citizens. A family's use of public benefits is not an indicator that they will be unable to sponsor and support an immigrant family member. Healthcare and food benefits are vital for families and use of the benefits should not limit their ability to sponsor an immigrant family member.

Additionally, this proposed rule will affect families beyond those who would be directly affected. The fear and confusion caused by this proposed rule will result in families forgoing the use of vital healthcare and food benefits. Despite the fact that under the 2019 DHS Public Charge rule, only a small percentage of non-citizens could be ineligible for green cards based on current benefit use³, immigrants and their U.S. citizen family members are continuing to forego benefits for which they are eligible. One in seven adults in immigrant families forwent public benefits in 2018 simply because of the “chilling effect” of the DHS Public Charge rule.⁴ DHS itself recognizes the harmful consequences of chilling effects in the proposed changes to the Affidavit of Support. During a global pandemic, people need these benefits more than ever.

It is cruel and inhuman to publish a rule that would cause families to go hungry or without healthcare during such a difficult time. Similar to the chilling effects the Public Charge rule had on immigrant families, we anticipate this proposed rule will have a chilling effects on immigrant families and U.S. citizens usage of healthcare and food benefits out of fear that they will face repercussions now or in the future. For instance, we anticipate this proposed rule will even cause confusion for individuals seeking to naturalize as they may erroneously believe the use of healthcare and food benefits will have a negative impact on their naturalization.

The proposed rule would create a perfect storm of red tape and fear that will deter family members and others from serving as sponsors, and significantly limit family-based immigration. Requiring in-depth bank account information from all sponsors is neither relevant nor necessary. DHS provides no reasonable justification for the massive documentary burdens and invasion of privacy that will result from requiring all sponsors and household members to provide information about their bank accounts. The proposed rule also requires all sponsors to provide their past three years of tax returns, as well as credit history. A sponsor's income three years in the past is not an accurate reflection on his/her current or future income, and neither credit reports nor credit

¹ Department of Homeland Security, Yearbook of Immigration Statistics, 2018, Table 6:

<https://www.dhs.gov/immigration-statistics/yearbook/2018/table6>

² *Id.*

³ R. Capps et al, Public Charge Rule: Broad Impacts, But Few Will Be Denied Green Cards Based on Actual Benefit Use, Migration Policy Institute (March 2020). <https://www.migrationpolicy.org/news/mpi-estimates-non-citizens-ineligible-green-cards-based-current-benefit-use>

⁴ H. Bernstein, et al, One in Seven Adults in Immigrant Families Reported Avoiding Public Benefit Programs in 2018, Urban Institute (May 2019) <https://www.urban.org/research/publication/one-seven-adults-immigrant-families-reported-avoiding-public-benefit-programs-2018>



scores were designed to provide information on whether a consumer is more or less likely to maintain his or her income in the future. Further, relying on credit history as a factor has a disproportionate impact on communities of color, including immigrants and naturalized citizens.

The changes in the proposed rule would not only require sponsors to complete more burdensome paperwork, but also puts an additional burden on community-based organizations. It will be harder and more costly for agencies and community-based organizations to communicate accurate information about the changed policies. Moreover, the proposed rule will cause undue burden for CAIR-NY as we will be required to develop in-depth guides and workshops to educate the Muslim community on how to satisfy the proposed rule's requirements. The proposed rule will also limit the number of cases our office may be able to handle as more resources will be diverted to satisfying the requirements of the proposed rule. Instead of creating more red tape, fear, and log-jams in the immigration process, we should support family members and close contacts who want to step forward in support of the legal immigration process by serving as a sponsor.

Ultimately, the proposed rule is another attempt by the Trump administration to limit family-based immigration. CAIR-NY strongly opposes the Affidavit of Support proposed rule. If implemented, the rule would deter sponsors from playing a critical role that permits family members and close contacts to adjust status, ultimately reducing the number of immigrants who are able apply for and receive green cards.

Thank you for the opportunity to submit comments on the proposed rule. Please do not hesitate to contact me at ahmedmohamed@cair.com if you have any questions or need any further information.

Respectfully,

COUNCIL ON AMERICAN-ISLAMIC RELATIONS, NEW YORK INC.

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