



THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N.Y. 10007

January 13, 2022

Department of State
Via Regulations.gov

RE: Visas: Ineligibility Based on Public Charge Grounds
Docket No. DOS-2021-0034; RIN 1400-AE87

The City of New York (“the City” or “NYC”) and its municipal hospital system, NYC Health + Hospitals, submit this comment in response to the Department of State’s (“DOS”) reopening of the public comment period on its interim final rule entitled “Visas: Ineligibility Based on Public Charge Grounds” (“Interim Final Rule”), originally published in the Federal Register on October 11, 2019.

The City submitted a comment on the Interim Final Rule on November 12, 2019, emphasizing the negative consequences for New Yorkers and the City as a whole that would result from the rule, and urging that the rule be withdrawn in its entirety.¹ Subsequently, NYC joined the State of New York and others in submitting an amicus brief in support of litigation seeking to enjoin the Interim Final Rule, citing among other things the rule’s anticipated detrimental impacts in terms of separation of families and harms to national, state, and local economies.²

Unfortunately, in the years since our prior comment, including during the COVID-19 pandemic and recovery, the City has also observed and experienced the anticipated negative impacts of the Interim Final Rule and other Trump Administration rulemaking efforts on public charge. Widespread confusion and fear around public charge rules have deterred immigrants from seeking and utilizing services and benefits they need, and required the City to undertake a citywide, multi-pronged response, including investing in extensive, ongoing outreach and community engagement efforts to combat the chilling effect.

Thus, we submit this comment to reiterate that the Interim Final Rule should be withdrawn, and furthermore to draw DOS’ attention to detailed, updated information about the above-mentioned costs and harms, as well as recommendations for future public charge regulations. The updated information and recommendations can be found in our October 2021 comment in response to the

¹ City of New York, Comment Re: Visas: Ineligibility Based on Public Charge Grounds, DOS Docket No. DOS-2019-0035 (Nov. 12, 2019), available at <https://www1.nyc.gov/assets/immigrants/downloads/pdf/comments/City-of-New-York-Comment-re-DOS-2019-0035.pdf>.

² Brief of Amicus Curiae States of New York et al., *Make the Road New York v. Pompeo*, Docket No. 19-cv-11633 (S.D.N.Y., Feb. 6, 2020), available at https://ag.ny.gov/sites/default/files/amicus_curiae_brief.pdf.

Department of Homeland Security's Advance Notice of Public Rulemaking regarding the Public Charge Ground of Inadmissibility.³

A devastating reality of the COVID-19 pandemic is that while immigrant New Yorkers made up a majority of frontline essential workers whose in-person work kept the City running during the pandemic⁴, immigrant communities have suffered disproportionate health, mortality, and economic harms in relation to the pandemic.⁵ As a City, we recognize that recovery for these immigrant communities is a critical component for the recovery of NYC overall.

As NYC continues to undertake efforts to recover from the COVID-19 pandemic, we urge DOS to ensure that future public charge rulemaking considers the lessons learned since the Interim Final Rule was first issued, avoids deterring individuals from needed services for which they are eligible, and aligns with the promotion of health and wellbeing of immigrant communities and our city and nation as a whole.

³ City of New York and NYC Health + Hospitals, Comment Re: Public Charge Ground of Inadmissibility, DHS Docket No. USCIS-2021-0013 (Oct. 22, 2021), available at <https://www1.nyc.gov/assets/immigrants/downloads/pdf/comments/City-of-New-York-Comment-DHS-Docket-No-USCIS-2021-0013-Public-Charge-Inadmissibility.pdf>.

⁴ Declaration of Sabrina Fong, *Department of Homeland Security v. New York*, No. 19A785 (S.Ct., Apr. 14, 2020); New York State Comptroller, New York City's Frontline Workers, available at <https://comptroller.nyc.gov/reports/new-york-citys-frontline-workers/>.

⁵ NYC Mayor's Office of Immigrant Affairs, Mayor's Office for Economic Opportunity, Department of Consumer and Worker Protection, Fact Sheet: COVID-19 Health and Economic Impacts on Immigrant Communities (2020), available at <https://www1.nyc.gov/assets/immigrants/downloads/pdf/covid-immigrantfactsheet-20200731.pdf>.