

October 22, 2021

Samantha L. Deshommès
Chief, Regulatory Coordination Division
Office of Policy and Strategy
U.S. Citizenship and Immigration Services
Department of Homeland Security
20 Massachusetts Avenue NW
Washington, DC 20529–2140

Re: DHS Docket No. USCIS-2021-0013

Dear Chief Deshommès,

The American Council on Education (ACE) and the undersigned higher education associations submit these comments in response to Department of Homeland Security (DHS) Docket Number: USCIS-2021-0013 regarding the Advance Notice of Proposed Rulemaking (ANPRM) on the public charge ground of inadmissibility and the development of a future regulatory proposal. We are pleased that DHS intends to ensure that the regulatory proposal “does not cause undue fear among immigrant communities or present other obstacles to immigrants and their families accessing public services available to them.”

In December 2018, our community submitted comments regarding the previous administration’s proposed changes to the public charge¹ rule. In our comments we made several points regarding the proposed changes and its impact on our domestic and international students. We hope this new proposed rule on public charge will reverse several of the problematic provisions included in that final rule so that American students with immigrant family members may access Title IV federal student aid; foreign students, upon graduation, may become legally employed in the United States; and our institutions may provide important social services to our students, families, and communities. Our specific points follow:

- Title IV federal student aid is only available to U.S. citizens or green card holders, with very few exceptions. Nonetheless, we have heard anecdotal reports of students who are U.S. citizens turning down financial aid packages because they are concerned that receiving educational assistance may adversely impact their non-U.S. citizen family members’ applications for admission or legal residency. The previous final rule explicitly exempted Title IV student aid programs from public benefit, and we ask that any future final rule explicitly exclude all Title IV student aid programs. We are concerned that unless these programs are explicitly excluded, any ambiguity will have a chilling impact on those U.S. students, with family members applying for admission or legal residency,

¹ <https://www.acenet.edu/Documents/Comments-DHS-Public-Charge.pdf>

from seeking postsecondary education.

- We also urge the administration to be clear that public charge will not impact non-immigrant applications, including F-1, J-1, and H-1B specialty visa applicants. The previous administration had proposed expanding public charge to apply to nonimmigrants, which was problematic and discouraging to international students and scholars considering postsecondary education and scholarly research in the United States. As we stated in our comments on the previous proposed rule, application of public charge considerations to F-1 and J-1 applicants is unnecessary, as they must already provide evidence of “sufficient funds available for self-support during the entire proposed course of study” and demonstrate that they will return to their home country. While the final rule excluded public charge for the application process for international students, it did require those individuals to demonstrate they have not made extensive use of public benefits if they wish to extend or change their visa status after they arrive. We ask that this be removed in a new final rule.
- We also hope the new proposed rule will seek to narrow the previous broadening of the public benefit programs which included health and food security programs, such as SNAP and Medicaid. We believe the expansion of public benefit programs had a negative impact on our immigrant and U.S. citizen students, as well as our ability to provide services to our larger community through community food banks and early childhood education such as Head Start. We ask that these programs be removed under the public benefit programs under a new final rule.

We hope this new proposed rule will seek to address the problematic changes carried out in previous rulemaking, and will allow our institutions the ability to continue to support our domestic and international students.

Sincerely,



Ted Mitchell
President

On behalf of:

American Association of Collegiate Registrars and Admissions Officers
American Association of Community Colleges
American Association of State Colleges and Universities
American Association of Veterinary Medical Colleges
American Council on Education
Association of American Universities
Association of Jesuit Colleges and Universities
Association of Public and Land-grant Universities

Council for Christian Colleges & Universities

EDUCAUSE

NAFSA: Association of International Educators

National Association for Equal Opportunity in Higher Education (NAFEO)

National Association of College and University Business Officers

National Association of Independent Colleges and Universities

National Association of Student Financial Aid Administrators

Presidents' Alliance on Higher Education and Immigration

State Higher Education Executive Officers Association