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Office of Policy and Strategy
U.S. Citizenship and Immigration Services
Department of Homeland Security

RE: DHS Docket No. USCIS-2021-0013; Public Comment in Response to the NPRM on the Public Charge Ground of Inadmissibility

The undersigned 44 nonprofit immigration legal services agencies that are affiliates of the Catholic Legal Immigration Network, or CLINIC, submit these comments in response to the Department of Homeland Security's, or DHS's, NPRM on the Public Charge Ground of Inadmissibility.

Our agencies provide legal services that include family-based immigration, naturalization, applications for humanitarian visas or status, asylum, and relief from removal. We have all been impacted by the previous administration's efforts to use the public charge ground of inadmissibility as a way to exclude working class applicants and discourage their family members from seeking needed social services and health-related benefit programs. We appreciate DHS's recognition of the negative direct and indirect effects that the 2019 Final Rule had on intending immigrants, as well as on U.S. citizen children and other family members in mixed-status households.

We are encouraged that this NPRM indicates that DHS aims to administer the public charge ground in a manner that conforms to congressional intent, prior agency interpretations, and long-standing legal precedent. We are grateful that DHS seeks to define public charge in a manner "that will be clear and comprehensible for officers as well as for noncitizens and their families and will lead to fair and consistent adjudications."

We support the proposed definition of the statutory phrase "likely to become a public charge" as "likely to become primarily dependent on the government for subsistence." We believe it will add clarity and restore the purpose behind the 1999 Interim Field Guidance, which was to "reduce the negative public health consequences generated by the existing confusion and to provide aliens with better guidance as to the types of public benefits that will and will not be considered in public charge determinations."

We recommend that DHS consider receipt of only two federal programs in the totality of the circumstances analysis: SSI and federal cash assistance provided under TANF. Non-cash services, special purpose cash, or non-recurring cash benefits under TANF should be excluded. We also

recommend that only current use of these benefits be considered. This recommendation supports DHS's proposal to ensure that use of these programs while in an exempt status not be considered.

Further, we suggest that DHS exclude state or local "cash benefit programs for income maintenance" from the list of programs that would be considered in a public charge evaluation. The inclusion of these programs would cause confusion and the very inconsistency that DHS seeks to avoid, given the difficulty in defining this term and applying it to each state or local program. That confusion would result in a chilling effect preventing many noncitizens and mixed-status families from turning even to programs that they are eligible for out of fear that it would stand in the way of their future immigration status.

We support DHS's decision to forgo defining the five statutory factors but instead to simply repeat the statutory language. For the last 25 years the legally-binding affidavit of support has been the primary determinant in whether an intending immigrant will be able to receive financial assistance after being granted lawful permanent residence. The sponsor and any household member will be obligated to maintain the person at 125 percent of the federal poverty level. The sponsored immigrant will also be barred or severely restricted from accessing federal means-tested programs for a five-year period, while the sponsor's income will continue to be deemed to the immigrant after that period.

The previous administration's efforts to define these five statutory factors created an intricate and intimidating arrangement that required adjudicators to review voluminous amounts of documentation and assign relative weight to evidence, such as credit report scores and proficiency in English, that had little or no relationship to predicting the applicant's self-sufficiency. Even that administration admitted that this new rating system would be subjective and discretionary in nature and lead to inconsistent results. By following the 1999 Interim Field Guidance and its emphasis on the affidavit of support, DHS is restoring the bright-line test that has been used in making a public charge inadmissibility determination since 1997.

We appreciate DHS's decision to revert to tested, long-standing criteria for evaluating public charge. However, we encourage DHS to consider including only SSI and TANF and excluding state and local cash benefit programs for income maintenance from the factors for consideration in public charge. Thank you for your consideration of these comments.

Sincerely,

ACCESS of WNY
Arkansas Immigrant Defense
Briggs Center for Faith&Action
Building One Community
Campesinos Sin Fronteras
CARECEN
Catholic Charities Boston
Catholic Charities Diocese of Gary
Catholic Charities Diocese of Palm Beach
Catholic Charities Hawaii
Catholic Charities of Acadiana

Lackawanna, NY
Springdale, AR
Bethesda, MD
Stamford, CT
Somerton, AZ
Washington, DC
Boston, MA
East Chicago, IN
Palm Beach Gardens, FL
Honolulu, HI
Lafayette, LA

Catholic Charities of Arkansas	Little Rock, AR
Catholic Charities of Corpus Christi	Corpus Christi, TX
Catholic Charities of Louisville, Inc.	Louisville, KY
Catholic Charities of the Archdiocese of Washington	Washington, DC
Catholic Social Services of Fall River, MA	Fall River, MA
Central Valley Immigrant Integration Collaborative	Fresno, CA
Community Center for Immigrants	Milwaukee, WI
The Diversity Service Center of Iowa	Muscataine, IA
East West International Culture Exchange	Cherry Hill, NJ
El Pueblo	Biloxi, MS
Hispanic Connection of Southern Indiana	Jeffersonville, IN
Hispanic Services Council, Inc.	Tampa, FL
IACO Immigration & American Citizenship Org	Passaic, NJ
Immigrant Connection- Greenville Multicultural	Greenville, SC
Immigrant Connection at Sent Church	Plano, TX
Immigrant Hope - Brooklyn NY	Brooklyn, NY
Immigrant Law Center of Minnesota	Saint Paul, MN
Immigration Service and Aid Center	San Antonio, TX
Jewish Family Service	Springfield, MA
Justice For Our Neighbors - North Central Texas	Grapevine, TX
LANBI Center / Sant Kominotè LANBI	Orange, NJ
Latin American Coalition	Charlotte, NC
Latino Community Association	Bend, OR
LORI	Baton Rouge, LA
Maxwell Street Legal Clinic	Lexington, KY
New American Pathways	Atlanta, GA
New Hope Immigration Legal Services at New Hope Free Methodist Church	Rochester, NY
New Mexico Immigrant Law Center	Albuquerque, NM
Oasis For Immigrants, Inc.	Tamarac, FL
Pacific Gateway Center	Honolulu, HI
RAICES	Dallas, TX
St. Francis Community Services	Saint Louis, MO
Yorba Linda Friends Church	Yorba Linda, CA