

BOARD OF DIRECTORS

LILY CORZO
Chair
Capital Research

ERIKA WHITE
Vice Chair
Education Advocate

DR. JILL BICKETT
Secretary
Loyola Marymount University

MARC PUGSLEY
Treasurer
Golden Bear Consulting Group

ALICIA MIÑANA de LOVELACE
Founding Chair
Law Offices of Alicia Miñana

MATT CAVE
King, Holmes, Paterno & Soriano LLP

WENDY HARPER
Ernst & Young LLP

GARY ROBERTS
Dentons US LLP

JASON RUDOLPH
Attorney

ERIC SAGERMAN
Winston & Strawn LLP

TINA STECK
Attorney

JOSEPH TELTNER
Coronal Group LLC

MARIBETH TOWERS
Major League Soccer

MARYSOL SANCHEZ VELAMOR
Attorney

STAFF

JANEEN STEEL
Executive Director & Founder

PATRICIA REYES
Finance and Office Manager

KYRA CLIPPER
*Advocacy for Children with
Autism Program Director*

SAMANTHA COCHRAN
Education Rights Clinic Director

RODOLFO ESTRADA
Community Engagement & Policy Director

CAROL JUNG
*Los Angeles Medical-Legal
Collaborative for Education Director*

PATSY VAN DYKE
Impact Litigation Attorney

NANCY SHEA
Staff Attorney

QIONGYUE HU
Harvard Law Fellow

VIVIAN WONG
Skadden Law Fellow

STEVEN CATRON
Special Education Law Fellow

MARISOL CHIANELLO
Pro Bono Manager

ARACELY ORTEZ WHITE
Paralegal

AZRA VARISCIC
Development Manager

AARON BICART
Development Associate

LETICIA MEJIA
Education Rights Clinic Advocate

CARMEN REYNAGA
TIGER Coordinator

SERGEI HASENECZ
Legal File Clerk

GABRIELA GARCIA
Administrative Assistant

VANESSA DE LA CRUZ
Receptionist & Administrative Assistant

JOSH MORALES
Data Clerk



CHANGING LIVES THROUGH EDUCATION ADVOCACY

December 10, 2018

The Honorable Kirstjen M. Nielsen
Secretary of Homeland Security
245 Murray Lane SW
Washington, D.C. 20528

The Honorable L. Francis Cissna
The U.S. Citizenship and Immigration Services
20 Massachusetts Avenue, NW
Washington, D.C. 20529

Re: Comments: Inadmissibility on Public Charge Grounds, *DHS Docket No. USCIS-2010-0012*

Dear Secretary Nielson and Director Cissna:

Learning Rights Law Center (Learning Rights) is pleased to provide comments for consideration by the Department of Homeland Security (DHS) and the United States Citizenship and Immigration Services (USCIS) on the proposed rulemaking regarding Section 212(a)(4) of the Immigration and Nationality Act (*Inadmissibility on Public Charge Grounds, DHS Docket No. USCIS-2010-0012*).

Learning Rights is a California-based nonprofit legal services organization whose sole mission is to ensure that all students are provided with equitable access to the public education system. Our clients include students involved in the welfare and/or juvenile justice systems; students with disabilities and/or learning difficulties; and students who do not have equal access to the public school system because of language, disability, sexual orientation, gender identity, homelessness, or inadequate facilities. We serve low-income families in Los Angeles, San Bernardino, Riverside and Ventura Counties, 95% of whom are Latino, Asian American, African-American, or Native American. While we work in all areas of education, our primary focus is special education, including a training program that works with hundreds of parents of students with disabilities every year.

Learning Rights does not work in the area of immigration law or provide immigration services, but we estimate that the majority of the families we serve have immigrant family members at various stages of their immigration journeys ranging from new arrivals to those who are applying for naturalization. Learning Rights encourages DHS and USCIS to reject the proposed public charge rulemaking language found in *Inadmissibility on Public Charge Grounds, DHS Docket No. USCIS-2010-0012*. Such a policy is antithetical to Learning

Rights' vision of a world in which every child, whether born in California, immigrant or undocumented, has the opportunity to learn while in the United States. Providing an education to immigrant and undocumented children or children whose parents are immigrants is not only the humane thing to do, but it aligns with United States Supreme Court precedent.¹

Learning Rights is deeply concerned that the communities we serve will confuse receiving a free public education, including special education services, with being a "public charge." We are also deeply concerned that unethical and unscrupulous school officials will threaten parents with being a "public charge" if they press for services for their children, including those that are mandated under the Individuals with Disabilities Education Act (IDEA),² the Americans with Disabilities Act³ and Section 504 of the Rehabilitation Act.⁴ While the proposed rulemaking language provides a public education exemption,⁵ immigrant parents may not understand how the exemptions apply or whether the services their children receive are part of an exemption. Learning Rights foresees children, most of whom are U.S. citizens born to immigrant parents, being harmed by the proposed rulemaking language. Given that the communities we serve are already under served and under diagnosed for special education services, we fear that this proposed rulemaking language will only make it more difficult for children to gain a meaningful education. We encourage DHS and USCIS to rethink this proposed regulation language and reject it.

While Learning Rights disagrees with the proposed rule change, we ask that if it is implemented DHS and USCIS should at a minimum develop a national education campaign for parents and families to make clear that public education is exempted from these new regulations. We would encourage DHS and USCIS to reach out to immigrant and education-focused organizations that can aid in this work so that parents do not fear receiving services for their children.

Thank you again for considering our comments. If you have any questions or concerns please contact me at the number or email address below.

Sincerely,



Rodolfo Estrada, Esq.,
Director, Community Engagement and Policy
(213) 488-0545
rodolfo@learningrights.org

¹ See *Plyler v. Doe*, 457 U.S. 202 (1982).

² See 20 U.S.C. § 1400 et seq.

³ 42 U.S.C. § 12101 et seq.

⁴ 29 U.S.C. § 701 et seq.

⁵ *Inadmissibility on Public Charge Grounds*, 83 Fed. Reg. 196 (October 10, 2018) at 51114.