



NPH Affordable Housing Conference

*Immigrants, Welcome Home: Know Your Rights, Protect
Your Tenants*

September 21, 2018

Today We Will Discuss

- (1) California laws re: immigration status and housing
- (1) Department of Homeland Security's Proposed Public Charge Rule

California Law Prohibits Landlords from Inquiring about Immigration Status

California Civil Code 1940.3

- Prohibits cities and counties from
 - Forcing a landlord to inquire, disclose, report, or provide info about a tenant's immigration status
 - Not allowing a landlord from renting to someone based on their immigration status
- Prohibits landlords from
 - Asking about the immigration or citizenship status of a tenant or prospective tenant
 - Requiring a tenant or prospective tenant to make a statement, representation, or certification about their immigration status
- Unless the landlord is
 - Complying with a legal obligation under federal law OR
 - Requesting information or documentation is necessary to verify financial qualifications of a prospective tenant, or to determine or verify the identity of prospective tenant

California Law Prohibits Landlords from
Using Immigration Status to Harass, Intimidate, or
Retaliate

California's Immigrant Tenant Protection Act (AB 291)

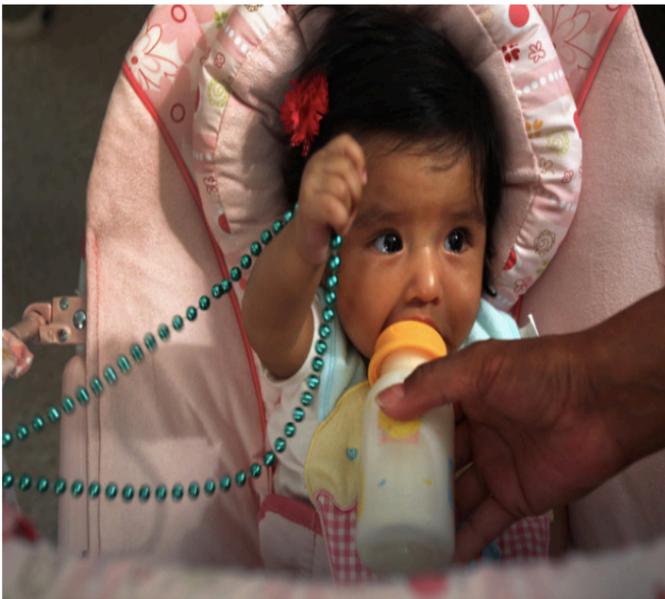
- Prohibits landlords from threatening to disclose or actually disclosing to any immigration authority, enforcement, or government agency information re: immigration status of a tenant or anyone associated with a tenant for purposes of
 - harassing, intimidating, or retaliating against a tenant or
 - influencing a tenant to vacate a dwelling
- Retaliatory conduct includes reporting or threatening to report immigration status to authorities when tenant exercises housing rights
- Subject to federal housing law requirements and **court** orders
 - does not apply to ICE/DHS subpoenas
- Immigration status is irrelevant to liability or remedy in tenants' rights-related litigation

Proposed Public Charge Rule

A punitive Trump proposal stokes panic among immigrants — even before it's official

Trump Has Scared Immigrants Into Forfeiting Their Kids' Nutritional Benefits

By Eric Levitz [@EricLevitz](#)



How Trump's Plan for Immigrants on Welfare Could Hurt a Million New Yorkers

Trump Administration Proposal Could Punish Legal Immigrants If Their Family Members Use Public Assistance

What does the proposed public charge rule do?

Departs from longstanding immigration policy by making it more likely for certain immigrants to be deemed “public charges” – denied admissibility or green cards - because **they or their dependents receive or would receive any housing, homelessness, or related government assistance** in the future.

What is a “public charge”?

- Origins of public charge
- Immigration officials can determine that a person is inadmissible to the U.S. or deny an application for a green card because the person is likely to become a public charge.
- Currently, a public charge is
 - A person who is primarily dependent on the government for subsistence, as shown by either:
 - the receipt of **public cash assistance** or
 - institutionalization for long-term care at the government’s expense

Proposed changes to “public charge”

- Under the proposed rule, a “public charge” is any applicant who **uses or receives, or is likely to use or receive, one or more public benefit(s)**
 - **Current definition** – Person who is *primarily dependent* on the government for subsistence, as shown by either (i) the receipt of *public cash assistance* or (ii) institutionalization for long-term care at the government’s expense
- “Public benefit” would include:
 - **Cash or non-cash assistance** from the government that is means-tested or meant to assist with basic living necessities, such as housing, health care, utilities and nutrition.

Proposed public benefits considered

- **Housing and housing-related benefits** explicitly included:
 - Housing assistance under the McKinney-Vento Homeless Assistance Act (Continuum of Care, Emergency Solutions Grants);
 - Housing Choice Voucher Program;
 - Means-tested energy benefits such as the Low Income Home Energy Assistance Program (LIHEAP)
- DHS could consider virtually **ANY** other federal, state, or local government housing or housing-related assistance

Proposed change to consider dependents

DHS proposes to consider whether an applicant's **dependents** have sought, received or used public benefits

Other proposed public benefits considered

Benefits that would continue to be considered:

- SSI
- TANF
- State or local cash benefit programs for income maintenance
- Institutionalization for long-term care at government's expense
- Any other Federal public benefits for purposes of maintaining the applicant's income, such as public cash assistance for income maintenance

Benefits critical to preventing homelessness that would be newly considered:

- Institutionalization for short-term care at government expense
- Nonemergency benefits under the Medicaid Program, CHIP
- Government-subsidized health insurance (ACA)
- SNAP
- WIC
- Refundable income tax credits such as the earned income tax credit when the credit exceeds the tax liability
- Other benefits not specifically listed as exempt

How would this rule impact immigrant families?

Joseph has temporary protected status. He lives in subsidized housing with a Section 8 voucher with his 2 U.S. citizen children and his citizen spouse. He is seeking to adjust to LPR status.

How would this rule impact immigrant families?

- The rule would deter eligible families from receiving or seeking housing assistance.
- The rule would force immigrants to choose between receiving critical services and reuniting with family members.
- The rule would harm immigrants and their dependents, including U.S. citizens, who live together and force more mixed-status families into homelessness.
- Chilling access to critical services would undermine the goal of self-sufficiency.
- The rule would exacerbate child poverty and homelessness.

Public opposition against the rule

- Federal, state and local officials
- Faith-based groups
- Public health groups
- National, state, and local advocacy groups

What can you do? Submit comments!

- The proposed rule could be published in the coming weeks or months
- The leaked draft provides for a 60-day comment period
- Goal is for advocates, organizations, and individuals to submit thousands of individualized comments to www.regulations.gov
- NHLP can work with you to discuss and coordinate comments

Issues to discuss in comments

- How would tenants be harmed?
- How would you be harmed as a housing provider?
- What stories can you share that would illustrate the impact on immigrant families?

- Protecting Immigrant Families website
 - <https://www.protectingimmigrantfamilies.org>
 - Sign up to join the campaign and get more information
- NHLP's public charge fact sheet for housing and homelessness advocates
 - <https://bit.ly/2QLIGzk>

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When ICE Comes to the Door: How to Protect Community Space and Tenant Privacy

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Protecting Spaces

Amendment IV:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Under the Fourth Amendment

- Search of private property without a warrant or proper consent is 'unreasonable'
- Consent must be given by a person with control of the premises
- Exception for exigent circumstances



Is the property private?



- Does property owner demonstrate intent to keep area private?
- Is area open to the public?

Practical tips

- Locked entrances including exterior gates
- Post notices: entry only allowed by permission of property owner or tenant
- Post # for law enforcement to contact owner
- Post signs inside common areas about not letting people in
- Train staff to look out for and question visitors, direct law enforcement to property owner

Sample language for notice:

This is private property. The Building Manager is not authorized to allow anyone to access or enter the property for purposes of a search, seizure or arrest with out a legally valid and executed warrant.

Law enforcement contact (510) 555-1234 for more information.

Role Play on Knock at Door

- There is a knock at your door.
- What is your first step?
- Assuming you have *not* opened the door:
 - YOU: Who is it?
 - ICE: I'm an officer with Immigration and Customs Enforcement. Can I come in? I just have a few questions.
 - YOU: Do you have a warrant?
 - ICE: I really just a few questions. Can you please open the door.

Know Your Warrants

ICE administrative warrant

US. Department of Justice
Immigration and Naturalization Service

Warrant of Removal/Deportation

File No: _____

Date: _____

To any officer of the United States Immigration and Naturalization Service:

_____ (Full name of alien)

who entered the United States at _____ on _____
(Place of entry) (Date of entry)

is subject to removal/deportation from the United States, based upon a final order by:

Fourth amendment protects non-public places

- The 4th Amendment of the U.S. Constitution protects against unauthorized governmental searches.
- You have a right to a reasonable expectation of privacy in non-public areas. ICE and CBP may not enter these areas without a warrant, consent, or an emergency.
- ICE and CBP may enter areas open to the general public.
- ICE, CBP, or other law enforcement authorities cannot search a facility without a valid warrant signed by a judge, unless: (A) you consent or (B) there is an emergency.

Role play on ICE at Organization

- **Scenario:** ICE officer enter organization and wants to have a look around.
- **First**, can I get your name and see your identification please?
- This area is not open to the public. We do not allow law enforcement activities here without a valid, judicial warrant. Do you have a valid, executed warrant to enter or search this property?
- **[If they claim to have a warrant:]** I'm going to call my [supervisor/our general counsel] to review the warrant. I cannot let you enter. Please give me just a minute to call them. [Direct agents to designated place to wait, apart from others]
- **[If no warrant:]** Okay then, I'm going to have to ask you to leave. This community center does not consent to you being here/questioning our members/conducting a search.
- **[If requesting records:]** I am not authorized to share any records with you. If you have a subpoena or court order, I can give it to our [director/manager/general counsel] to review.

Role play on nonpublic space

ICE agents want to search area typically reserved for clients.

- ICE: I need to take a look back there.
- YOU: Do you have a search warrant?
- ICE: No. I just need to take a quick look back there. It will only take a minute.
- YOU: That space is reserved for our clients. I am not authorized to let you back there without a valid search warrant. [Inform supervisor/general counsel.]
- [If agent insists] YOU: You do not have consent to search here. Please tell me your name and badge number.

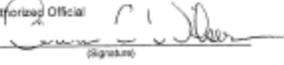
Questions, comments on
law enforcement on site?

Privacy policies to protect tenant privacy

- Fourth Amendment protects “papers and effects”
- This can include information about your tenants
- Seeing a rise in informal and formal requests



Know your subpoenas!

1. To (Name, Address, City, State, Zip Code)	DEPARTMENT OF HOMELAND SECURITY IMMIGRATION ENFORCEMENT SUBPOENA to Appear and/or Produce Records 8 U.S.C. § 1225(d), 8 C.F.R. § 287.4
Subpoena Number	
2. In Reference To Request for Documents and Forms I-9 (Title of Proceeding) (File Number, if Applicable)	
By the service of this subpoena upon you, YOU ARE HEREBY SUMMONED AND REQUIRED TO:	
(A) <input type="checkbox"/> APPEAR before the U.S. Customs and Border Protection (CBP), U.S. Immigration and Customs Enforcement (ICE), or U.S. Citizenship and Immigration Services (USCIS) Official named in Block 3 at the place, date, and time specified, to testify and give information relating to the matter indicated in Block 2.	
(B) <input checked="" type="checkbox"/> PRODUCE the records (books, papers, or other documents) indicated in Block 4, to the CBP, ICE, or USCIS Official named in Block 3 at the place, date, and time specified.	
Your testimony and/or production of the indicated records is required in connection with an investigation or inquiry relating to the enforcement of U.S. immigration laws. Failure to comply with this subpoena may subject you to an order of contempt by a federal District Court, as provided by 8 U.S.C. § 1225(d)(4)(B).	
3. (A) CBP, ICE or USCIS Official before whom you are required to appear Name Title Auditor Address Telephone Number (204) 442-2218	(B) Date 08/29/2013 (C) Time 11:00 <input checked="" type="checkbox"/> a.m. <input type="checkbox"/> p.m.
4. Records required to be produced for inspection 1) Original I-9 Forms, (Employment Eligibility Verification Forms) and any copies of attached documents presented at time of I-9 completion for all current employees. Items 2) - 12) are listed on continuation sheet.	
	5. Authorized Official  (Signature) Assistant Special Agent-in-Charge (Title) (Date)
If you have any questions regarding this subpoena, contact the CBP, ICE, or USCIS Official identified in Block 3.	

DHS Form I-138 (8/09)

- Department of Homeland Security subpoena, form I-138 is *not self-executing*
- ICE must seek court enforcement to compel disclosure

Practical tips re document privacy

- Train your staff – we do not share tenant information without a warrant
- If you get a request for information or documents, refer it to a designated person



What to tell ICE?

- You can have your lawyer talk to ICE, CBP, etc. for you
- Find out what subpoena is for
- Suggest they get a release from your tenant for the info
- Refer them to the ACLU!

What to tell your tenants?

- You don't have to say anything
- Policy to let tenants know about info requests from government
- What parameters?

Questions and comments?

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KNOW YOUR RIGHTS!

What to do if
immigration agents
arrive at your door



KNOW YOUR RIGHTS!

Presented by



**MISSION
HOUSING**
DEVELOPMENT
CORPORATION



Sam Moss
Executive Director

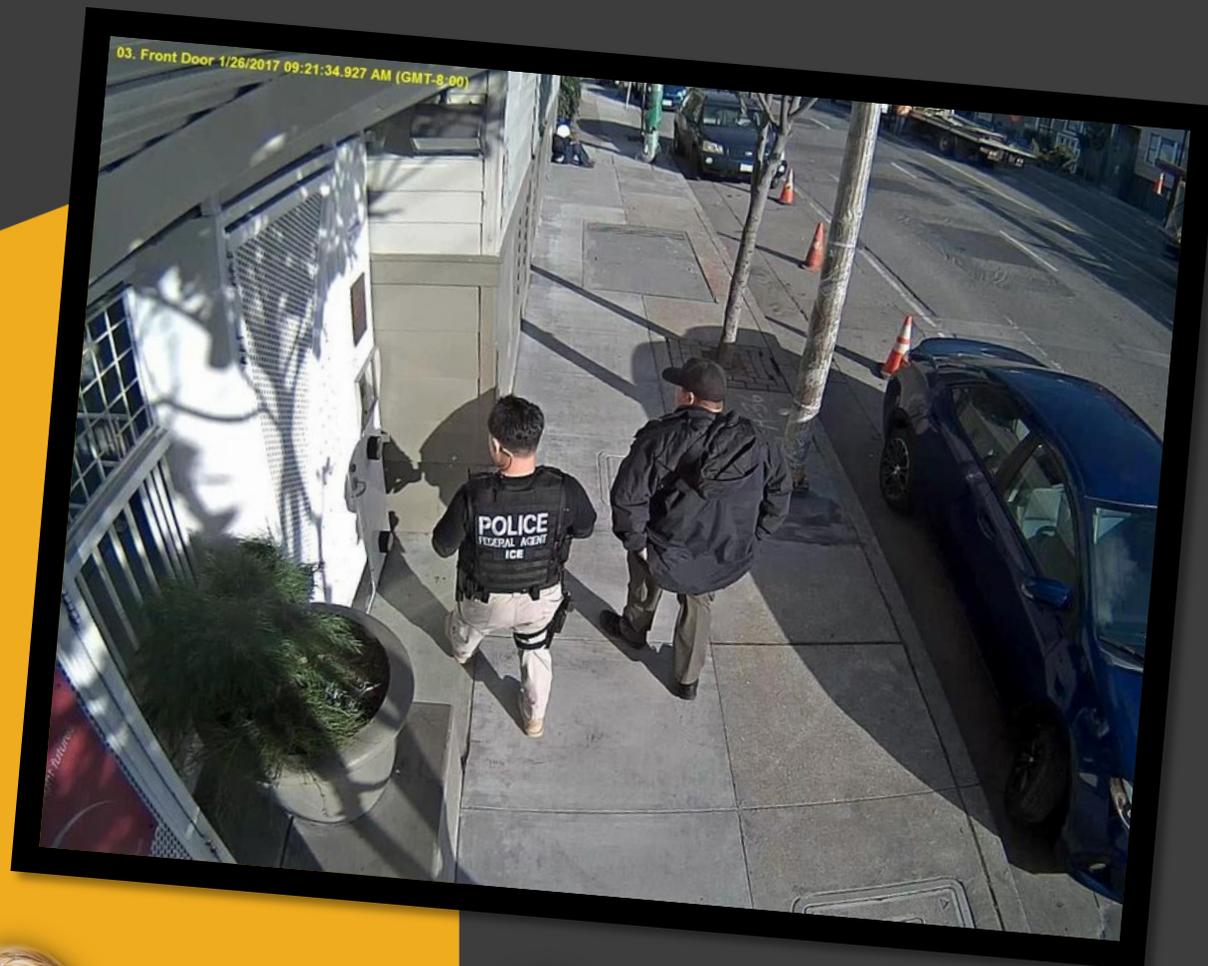


**Chirag
Bhakti**
Community
Engagement
Coordinator



KNOW YOUR RIGHTS!

Immigration agents
attempting an
arrest at
Good Samaritan
Resource Center
spurred us to action



 **MISSION
HOUSING**

KNOW YOUR RIGHTS!

1. Workshops to help staff, residents and neighbors know their rights



KNOW YOUR RIGHTS!

2. Mission Housing
orders “red cards” from
Immigrant Legal
Resource Center
and distributes to
residents



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3. Mission Housing
creates *Know Your
Rights – What to do
When Immigration
Agents Arrive at Your
Door* brochure



 **MISSION
HOUSING**

KNOW YOUR RIGHTS!

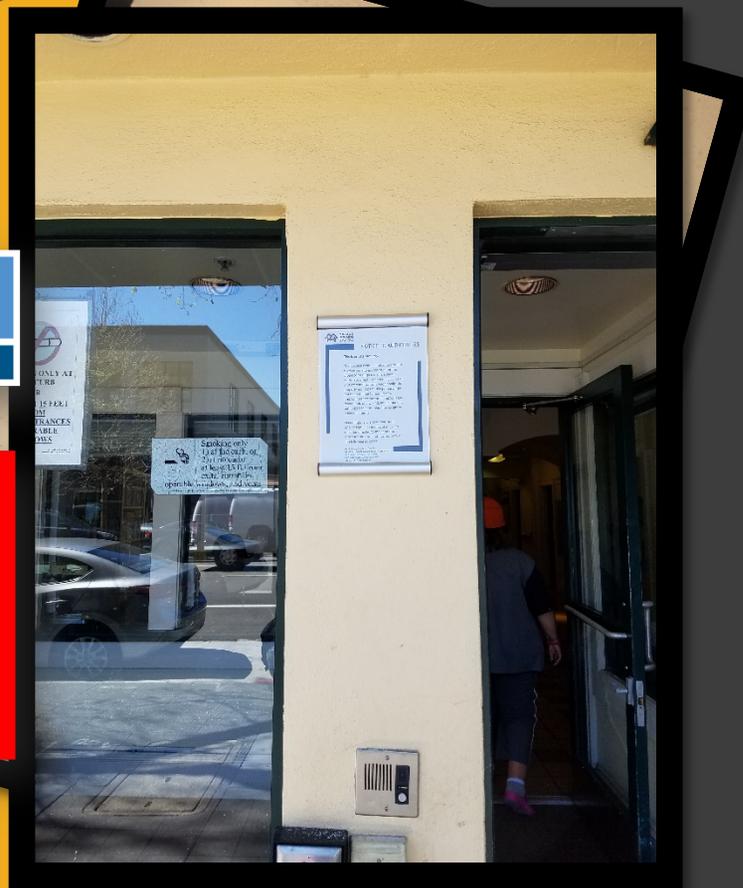
Handout details steps to take when immigration agents or other law enforcement go to a home



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HOUSING**

KNOW YOUR RIGHTS!

4. "Notice to Authorities"
signs are being made
into permanent fixtures
on Mission Housing
buildings



5. The Mission Housing Family Stabilization Fund

- ✓ \$40,000
- ✓ Supports Mission Housing families
- ✓ Any member of the Mission community



 **MISSION
HOUSING**

5. The Mission Housing Family Stabilization Fund

- ✓ Assist with rent payments and groceries if a family's "bread winner" is detained



 **MISSION
HOUSING**

KNOW YOUR



Housing, Legal Group

CULTURESTR

A "red card" ou

By Laura Wenus Y
Posted February 3, 20

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Mission Housing Developm
Immigration and Customs E

Moreover, the agency, which
undocumented immigrants k

One of the precautions is to p
officers should be told to go t

"You're saying someone will ve
director. "It won't just be for ICE. R'll
approve it."



KNOW YOUR RIGHTS!

What to do if
immigration agents
arrive at your door

missionhousing.org



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