



Make Your Voice Heard!

Defend Immigrants by Taking Part in the Federal Rulemaking Process

You and your organization can influence important immigration policies and procedures by participating in the federal rulemaking process. The Administrative Procedure Act generally requires agencies to provide an opportunity for the public to weigh in on the rulemaking process. Despite the huge impact that agency rules, regulations and immigration forms can have, there is often little public participation in this process.

This guide will provide an overview of the federal rulemaking process and information about how you can participate. Engaging in administrative advocacy ensures that we are using all avenues to fight for immigrants and will more effectively amplify our collective voice.

How does federal rulemaking work?

With some exceptions, the law requires that the public have an opportunity to weigh in on federal agency rules. This is called a notice and comment period. Typically, the public has between 30 and 60 days to submit comments on a proposed regulation. There may also be public meetings to collect additional information and communicate with people who are affected by the rule.

Federal agencies must review and consider all the comments they receive before creating a final rule, which then becomes law. The final version of the rule must be based on relevant information gathered during the

rulemaking process, including from public comments. Public comment is not a vote. Agencies are not required to throw out a rule if they receive more opposing than supporting comments. However, public comments with important new information, significant questions or policy arguments could force the agency to change course.

How will I know when a federal agency proposes a rule affecting immigrants?

The main federal agencies that create rules affecting immigrants include the Department of Homeland Security—including component agencies such as the U.S. Citizenship and Immigration Services—the Department of State, the Department of Labor and the Department of Health and Human Services.

If the law requires that the public be notified when a federal agency proposes a new rule, the notice is published in the Federal Register, a daily publication which also contains finalized rules, notices from the president and other information.

You can use two websites to view and comment on proposed rules:

Federalregister.gov

To automatically receive updates:

1. Sign up for an account.
2. After you're logged in, use the browse feature on the toolbar to subscribe to email updates. For example, you can sign up to receive email updates on immigration, refugees, the Department of Homeland Security, the Executive Office of the President and any other topics or agencies pertinent to your work or interest.

Regulations.gov

Regulations.gov allows you to easily browse notices and proposed rules by categories of interest. It highlights newly posted rules, rules with comment periods ending soon and “trending” (most viewed) rules on its homepage.

Another key way to keep informed about agency rulemaking is to sign up for agency updates. Sign up for email updates from USCIS here: <https://public.govdelivery.com/accounts/USDHSCIS/subscriber/new>.

We also recommend following the Federal Register, Regulations.gov, federal agencies and their component agencies on your social media accounts.

How do I submit a comment?

- The easiest way to submit comments (and keep track of deadlines for submitting comments) is to do it online. You can submit comments through either the Federal Register website or Regulations.gov. Both websites clearly state the date you can begin submitting comments and the last day of the open comment period.
- On the Federal Register website, click on the “Submit a Formal Comment” button at the top of the proposed rule on which you wish to comment.
- On Regulations.gov, click the “Comment Now!” button on the proposed rule on which you wish to comment.
- To submit a comment by mail or fax, look up the agency’s information for accepting comments on the Federal Register website. Click on the “Submit a Formal Comment” button and then click, “Alternate Ways to Comment.”

What should I write in my comment?

- Administrative advocacy emphasizes quality over quantity. Your comment doesn’t have to be lengthy, but it should be thoughtful and drawn from your experience, expertise and perspective as an advocate or person affected by the rule.
- Before writing, read the proposed rule very carefully. If you have questions, call the agency and ask.
- When reviewing the rule, be sure to look at the “docket” feature on Regulations.gov to review supporting materials. You can find the docket in the toolbar on the right-hand side of the screen when looking at a rule. In the immigration context, supporting documents might include a new form or instructions for a form. The notice and comment period might be the only opportunity to weigh in on a new form before it is implemented.
- It is also beneficial to read comments other people have already made on a rule. They might give you new perspectives or thoughts to strengthen your arguments.
- As Regulations.gov says, “A single, well-supported comment may carry more weight than a thousand form letters.” Use facts. Cite studies, point out costs, make policy arguments, and include personal stories about yourself or others to illustrate your points.
- You can suggest exact language that should be in a rule.
- Comment if you support a rule or part of a rule. Don’t only comment if you oppose something. Saying a rule or part of a rule is beneficial is important to protect it from being changed based on opposing comments.
- Be very organized when writing your comment. It may be helpful to make an outline of the points you wish to make before you start writing. Using numbers to order your points and arguments is a suggested and effective technique.
- Use respectful and professional language to make sure your comment is considered. Also remember that, with limited exceptions, all comments are public and anyone can read what you wrote.
- Before writing your first comment, review this tip sheet from Regulations.gov: www.regulations.gov/

10 steps to comment on a federal rule

1



Identify a rule that will have a positive or negative effect on your community that you want to comment on.

2



Read the proposed rule carefully. Check the docket and review all supporting materials.

3



Check the date you can begin submitting comments and the last day of the open comment period.

4



Read comments other people have made.

5



Get your organization's leadership to sign off on making a comment, if needed.

6



Draft your comment. Use facts and make the comment unique to you, your organization or your community.

7



Visit either the Federal Register website or Regulations.gov.

8



Search for the rule you want to comment on.

9



Click "Submit a Formal Comment" on the federal register and "Comment Now!" on regulations.gov.

10



Submit your comment.

What other opportunities do I have to provide feedback to U.S. Citizenship and Immigration Services?

USCIS collects feedback from stakeholders in a variety of ways. This may include comments on policy changes, but there may only be a very short window of opportunity to respond. For information on current USCIS documents available for comment, visit this link: www.uscis.gov/outreach/feedback-opportunities.

What about state and local administrative advocacy?

Although immigration is controlled by federal laws and agencies, sometimes state or local agencies make rules that affect immigrant communities. In general, state and local agencies follow the same notice and comment process as federal agencies. Look up your individual state or local resources to stay informed about state and local rulemaking.

How do I activate my community to engage in administrative advocacy?

- Build coalitions with local immigrants' rights organizations, religious organizations and others to generate more comments.
- Share information about rules affecting immigrant communities on social media. Share this guide to help activate others.
- Let your community know if an agency is holding a public meeting on the rule. Many meetings are held online.
- Consider engaging with local media. For example, share your concerns about a proposed rule in an op-ed.
- Consider holding an administrative advocacy workshop based upon the information in this guide.
- Petition an agency for the rules you want or don't want. The Department of Homeland Security adopted a process under which interested persons

A note about safety

If you are an undocumented person or family member of an undocumented person, remember that comments are public information.

Helpful resources:

- "A Guide to the Rulemaking Process" from the Office of the Federal Register www.federalregister.gov/uploads/2011/01/the_rulemaking_process.pdf
- "Get Involved in Rulemaking" from DHS dhs.gov/get-involved-rulemaking

For data and studies:

- Migration Policy Institute: www.migrationpolicy.org
- Center for Migration Studies: cmsny.org
- The Immigrant Learning Center: www.ilctr.org
- Pew Research Center: www.pewresearch.org
- Brookings Institution: www.brookings.edu
- Center for American Progress: www.americanprogress.org

To hear when CLINIC is coordinating calls for comment, visit cliniclegal.org/email and sign up for our Advocacy and Legislation Updates list.