

July 6, 2021

SUBMITTED VIA REGULATIONS.GOV

Shalanda Young
Acting Director
Office of Management and Budget
725 17th Street, NW
Washington, D.C. 20503

Re: RFI on E.O. 13985, OMB-2021-0005

Dear Acting Secretary Young,

UnidosUS (formerly the National Council of La Raza) submits the following comments in response to the Office of Management and Budget (OMB) request for information (RFI) on Executive Order 13985 of January 20, 2021, *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government* (E.O. 13985).

UnidosUS thanks you for the opportunity to inform the federal government's approach to advance equity for all, including people of color and others who have been historically underserved, marginalized, and adversely affected by structural and social inequities. UnidosUS applauds the Biden-Harris Administration (the Administration) for prioritizing racial equity and making the whole of government responsible for equity in its work.

Since 1968, UnidosUS—formerly known as the National Council of La Raza—has been committed to building a stronger America by creating opportunities for Latinos. In this rich 50-year history, UnidosUS has remained a trusted, nonpartisan voice for Latinos, serving the community through research, policy analysis, and state and national advocacy. We also work closely with a network of nearly 300 community-based organizations in 37 states, the District of Columbia, and Puerto Rico, to serve our community in a variety of areas including civil rights and immigration, education, and health. Many of our community partners provide direct services in these areas.

Enclosed, you will find a detailed description of UnidosUS' responses to RFI Areas 1, 2, and 5, as well as four cross-cutting recommendations. At their heart, these recommendations urge the Administration to ensure that its efforts to address racial inequalities are fully inclusive of the needs, interests, and aspirations of Hispanic Americans, the nation's largest – but often overlooked – ethnic minority.

Thank you for your consideration. For any inquiries regarding UnidosUS' racial equity work or enclosed comments, please contact me at erodriguez@unidosus.org.

Sincerely,

Eric Rodriguez
Senior Vice President, UnidosUS

Background

UnidosUS is the largest Latino¹ civil rights organization dedicated to improving life opportunities for the nation's 58 million Hispanics. Through a network of nearly 300 affiliated community-based organizations (“affiliates”), UnidosUS reaches millions of Latinos each year in 37 states, Puerto Rico, and the District of Columbia. To achieve its mission, UnidosUS expands opportunities for Latinos through capacity-building assistance to a national network of multiservice affiliate organizations rooted in Latino communities; robust and tested program models; applied research, policy analysis, advocacy; and civic engagement efforts. UnidosUS provides a Latino perspective in five key areas: civil rights and immigration; education; employment and economic growth; health; and asset/wealth building.

For almost three decades, UnidosUS has conducted research and analysis, testified in front of Congress, and engaged in the rulemaking process on issues related to improving racial equity in policy making and implementation. Two recent examples include an April 2021 House of Representatives [briefing](#) with the Ways & Means Committee’s Racial Equity Initiative on equitably reducing child poverty, and a civil rights broadband working group [coalition letter](#) to the Federal Communications Commission in response to WC Docket No. 20-445: Emergency Broadband Benefit Program. As part of the federal rulemaking process, UnidosUS has submitted substantive comments on possible racial inequities which would result from proposed rules, including:

- [Nondiscrimination in Health and Health Education Programs or Activities Section 1557](#)
- [Supplemental Nutrition Assistance Program: Standardization of State Heating and Cooling Standard Utility Allowances](#)
- [Revision of Categorical Eligibility in the Supplemental Nutrition Assistance Program \(SNAP\)](#)
- [Supplemental Nutrition Assistance Program \(SNAP\): Requirements for Able-Bodied Adults without Dependents](#)

At the federal level, UnidosUS has partnerships and/or memoranda of understanding with agencies such as the Census Bureau and the Centers for Disease Prevention and Control (CDC). As a Census Bureau Information Center, UnidosUS advises the Bureau on new data products, participates in annual convenings, and undertakes community outreach during decennial censuses to ensure a racially equitable count. UnidosUS is a primary recipient of CDC funding through Partnering with National Organizations to Increase Vaccination Coverage Across Different Racial and Ethnic Adult Populations Currently Experiencing Disparities, which currently focuses on the response to COVID-19.

UnidosUS is a fiscal sponsor and central staffing mechanism for the Racial Equity Anchor Organizations, supported by the W.K. Kellogg Foundation and comprised of leading national civil rights groups such as the Advancement Project, National Office, Asian & Pacific Islander American Health Forum, Demos, Faith in Action, NAACP, National Congress of American Indians, National Urban League and Race Forward. Together, the Anchor Organizations work to promote racial equity, advance racial healing,

¹ The terms “Hispanic” and “Latino” are used interchangeably by the U.S. Census Bureau and throughout this document to refer to persons of Mexican, Puerto Rican, Cuban, Central American, Dominican, Spanish, and other Hispanic descent; they may be of any race.

and ensure that all children, families, and communities have genuine opportunities to reach their full potential.

UnidosUS is a signatory to and/or otherwise endorses in principle comments submitted to this RFI by the Leadership Conference on Civil and Human Rights, the Migration Policy Institute and the Racial Equity Anchors Collaborative. We have also produced a series of related materials, some of which include, "[Deaths of People of Color by Law Enforcement Are Severely Under-Counted](#)," "[Toward a More Perfect Union: Understanding Systemic Racism and Resulting Inequity in Latino Communities](#)," and "[The Great American Pandemic Recovery: Tackling Systems of Inequality that Impede Full Latino Inclusion in the COVID-19 Response](#)," which we incorporate here by reference. Given the extremely broad potential scope of actions that the federal government could take to advance racial equity, we have limited our recommendations to *specific matters that significantly and disproportionately* affect Americans of Hispanic descent, and are *actionable* by the administration without major new legislative authority.

The following comments in response to the RFI are limited to matters on which UnidosUS has both expertise and standing to address, i.e., where our policy history, affiliate network, racial equity-promoting programs, and partnerships with federal agencies allow us to offer a unique and well-informed perspective on the methods and leading practices for advancing equity and support for underserved communities, as well as remaining gaps which must be addressed. For these reasons, we have not attempted to answer every question in the RFI but instead seek to address in detail only those questions that fall within the criteria outlined above.

Responses are labeled by Area and question number as they appear in the original RFI on regulations.gov, Federal Register Number 2021-09109, e.g., Area 1.4 refers to the fourth question under the heading Area 1.

Area 1. Equity Assessments and Strategies

1.4 Promising equity assessment tools which agencies with public safety missions can adopt to address data gaps and identify, track, and reduce inequitable outcomes.

By January 1, 2023, the Administration should be positioned to publish an annual federal database of all people killed by or in the custody of law enforcement, disaggregated by race and ethnicity. The functionality and efficacy of equity assessment tools rest upon the comprehensive, consistent, and accurate collection and reporting of disaggregated racial and ethnicity data. This information is particularly needed to address the epidemic of police violence and officer-involved killings of individuals of color – an outgrowth of racialized policing and surveillance policies and practices that has perpetuated the marginalization of communities of color. While the Administration has made commitments to support law enforcement reforms to reduce the incidence of unjustifiable deaths attributable to law enforcement, there continues to be no official database of such deaths. What is more, existing programmatic efforts by the Office of Justice Programs (OJP) within the Department of Justice (DOJ) to collect even basic use of force data by law enforcement are at best patchwork, opaque, and inconsistent. As a result, private entities have attempted to fill some of these voids. However, even

these good-faith efforts ultimately mischaracterize and undermine the scope and extent of these issues as they significantly undercount the deaths of Latinos and other individuals of color, as underscored in UnidosUS' recent Advanced Fact Sheet.² Whether or not legislation to explicitly authorize such a database is enacted, a credible effort could be initiated by the Administration by:

- Explicitly articulating the production and publication of this database as an administrative priority.
- Identifying and consolidating existing data collection systems that may be used for this purpose, as well as addressing gaps in their overlap. For example, this may include streamlining datasets hosted by various agencies within the DOJ, including:
 - the National Institute of Justice (NIJ).
 - the Bureau of Justice Statistics (BJS), which is responsible for the Police-Public Contact Survey (PPCS), which includes information on law enforcement use of force in interactions.
 - the Bureau of Justice Assistance (BJA), which is responsible for the opaque and insufficient Arrest-Related Deaths program, originally created by the BJS in 2003 and revised in 2015 in wake of the Death in Custody Reporting Act (DCRA), originally passed in 2014. The DOJ has “determined that data-collection responsibilities for the DCRA reside with” BJA since BJS’ statutory authority precludes use of its data for anything other than statistical or research purposes.³
 - the Criminal Justice Information Services (CJIS), which is responsible for the FBI Crime Data Explorer (CDE), which hosts the National Use of Force Data Collection project.
- Centralizing the access point to this database and creating a portal that is easily accessible and navigable for the public. Such a database should divulge source information systems as well as methodologies and definitions used. Datasets should be available for all years prior.
- Issuing guidelines which standardize incident information to be submitted to the DOJ by federal, state, and local law enforcement agencies. Information requirements should be comprehensive and clearly defined.
- Taking steps to address reporting gaps by, for example, conditioning federal funding to states and localities to agency compliance in timely reporting of such deaths.
- Publishing law enforcement agencies that decline to comply with reporting requirements.

Articulating an immediate intention to produce, and taking concrete steps to implement, such a database not only increases the likelihood that it could be implemented even without legislation, but also puts all law enforcement agencies on notice that such reporting requirements are imminent, and thus could have immediate, salutary effects by deterring unjustified killings of Latinos and other people of color, thus advancing the Administration’s commitment to advancing racial equity.

² UnidosUS (with Raza DataBase Project), “Deaths of People of Color By Law Enforcement Are Severely Undercounted,” Special Advance Fact Sheet, May 2021: [Special Advance Fact Sheet: Deaths of People of Color By Law Enforcement Are Severely Under-Counted \(unidosus.org\)](https://unidosus.org).

³ U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, “Arrest-Related Deaths Program: Study of Redesignated Survey Methodology,” July 2019: <https://bjs.ojp.gov/content/pub/pdf/ardppsrsm.pdf>.

1.5 Best practices for the Administration to consider when collecting data and building evidence in appropriate and protected ways to support greater attention to equity in policymaking.

The Administration must prioritize privacy protections in its collection, analysis, and reporting of data processes. UnidosUS, as part of the Racial Equity Anchor Collaborative – the foremost diverse coalition of national racial justice and civil rights organizations – has previously communicated to the Administration a comprehensive set of positive practices to ensure that the data privacy of communities of color is appropriately considered and protected. That memo, “Implementation and Positive Practices for the Equitable Data Working Group” (link below)⁴, outlines these unique needs, including the creation of an Equitable Data Working Group as referenced in Executive Order 13985.

Area 2. Barrier and Burden Reduction

2.1 Ways in which the Administration can address known burdens and barriers to accessing benefits programs in their assessments of benefits delivery.

By January 1, 2023, the Administration should perform a comprehensive assessment of access points for benefit programs, ensuring that sign-up processes and customer outreach utilize offline channels – including in-person, telephone, and paper options – in addition to digital channels. Publicity and communications campaigns accompanying these programs should also utilize offline channels to complement online methods. Latinos are overrepresented in the Digital Divide; pre-pandemic, approximately 18 million Latinos lacked a reliable home broadband connection.⁵ As of February 2021, that number has risen to approximately 21 million Latinos.⁶ Lack of stable internet acts as a barrier to entry for underserved communities, impacting public awareness of such programs, limiting access to sign-up, and erecting extra barriers to maintaining benefits. What is more, 25% of Latinos who lack home internet connections report dependence on smartphones – compared with 12% of whites and 17% of Blacks – which limits the navigability and digital literacy of many online portals and websites.⁷

To maximize the reach of benefit programs among historically underserved communities, the Administration can develop and issue guidelines for administering agencies to host and advertise their respective benefits programs, including⁸:

- Using plain language on sign-up websites, forms, and communications.⁹

⁴ The Racial Equity Anchor Collaborative (Including UnidosUS), “Implementation and Positive Practices for the Equitable Data and Data Working Group,” May 3, 2021, <https://www.demos.org/sites/default/files/2021-05/Anchor%20Data%20Recommendations.pdf>.

⁵ Matthew F. Wood, “Written Testimony of Matthew F. Wood Before the House of Representatives Committee on Energy and Commerce, Subcommittee on Communications and Technology: Connecting America: Broadband Solutions to Pandemic Problems,” February 17, 2021, https://www.freepress.net/sites/default/files/2021-02/matt_wood_fpa_written_broadband_testimony.pdf.

⁶ Pew Research Center, “Internet /Broadband Fact Sheet,” April 7, 2021, <https://www.pewresearch.org/internet/fact-sheet/internet-broadband/?menultem=3109350c-8dba-4b7f-ad52-a3e976ab8c8f>.

⁷ *Ibid.*

⁸ UnidosUS has previously communicated a narrow application of the included suggestions in a joint public comment in regards to the Emergency Broadband Program to the Federal Communications Commission in February 2021: Civil Rights Broadband Working Group Coalition (including UnidosUS), Joint Comment Submitted to the Federal Communications Commission Re: Emergency Broadband Benefit Program, WC Docket No. 20-445, February 16, 2021, https://ecfsapi.fcc.gov/file/10216230510651/Civil_Rights_Broadband_Working_Group_Coalition_EBB_Letter.pdf.

⁹ The Plain Language Action and Information Network (PLAIN), “What is plain language?,” July 2021, Plainlanguage.gov.

- Ensuring that existing websites and online sign-up processes are also navigable by smartphone, with options for telephonic support if needed, and making print options available.
- Using language and advertising practices that are culturally relevant and inclusive.
- Utilizing cross-agency communications to advertise programs to likely-eligible households. For example, including advertisements for federal programs on comparable state agency websites and communications, as well as on websites and communications for federal programs which are often used to demonstrate eligibility for other services, such as SNAP and Medicaid.
- Expanding online channels of communication, including leveraging social media, email, and other online channels which underserved communities use to obtain information.
- Expanding offline channels of communication in English and other languages through television, newspapers, radio, magazines, and flyers; maximizing distribution methods by mail, at schools, community centers, and public libraries, in bill statements, and through targeted phone calls.
- Partnering with community-based organizations (CBOs) and other partners with ties to traditionally hard-to-reach communities to develop and implement culturally relevant advertisement and sign-up processes which would promote wider public understanding of available program options and eligibility requirements.

Awareness, access, and delivery of benefit programs need to be culturally relevant and reflective of the daily lived experiences of the communities they are intended to serve. For Latinos to be fully and meaningfully included in the delivery of benefit programs, it is important that the Administration center the unique needs and vulnerabilities of historically underserved communities.

2.2 Equity data gaps the Administration must bridge to allow true and meaningful program monitoring and civil society engagement.

By January 1, 2023, the Administration should be positioned to publish annual federal data on anti-poverty and social safety net programs through each implementing agency, disaggregated by race, ethnicity, gender, and nativity and/or tax filing status. (For a list of metrics, please see 2.6) The Administration is committed to equitably reducing child poverty in the U.S. through anti-poverty tax programs and social safety net programs.¹⁰ True and meaningful engagement by impacted communities in working toward this goal requires accurate, trusted, and transparent administrative data disaggregated by key equity indicators. Currently, the Treasury Department, Department of Health and Human Services, and Department of Housing and Urban Development do not make these types of program data publicly available. When they are available, they are not at regular intervals, are rarely disaggregated by Hispanic ethnicity, and almost never disaggregated by nativity and/or tax filing status. As a result, civil society and other community-serving organizations must either perform their own modelling, which few are equipped to do, or rely on academic literature and other outside sources for best estimates. Academic and think tank estimates are not regularly published, nor do civil society members always know which sources to trust. In the complete absence of official disaggregated

¹⁰ Executive Office of the President, "Fact Sheet: The American Families Plan," Office of the White House Press Secretary, Statements and Releases, April 28, 2021. <https://www.whitehouse.gov/briefing-room/statements-releases/2021/04/28/fact-sheet-the-american-families-plan/> (accessed July 1, 2021).

administrative data and best estimates, civil society organizations must pay experts to perform calculations which often cost tens of thousands of dollars, if not hundreds. This creates an undue burden on BIPOC-serving civil society organizations to be able to perform basic monitoring of program outcomes by race, ethnicity, and nativity to identify community outreach needs or related advocacy.

Publicly available, regular reporting of disaggregated program data would not require legislative authorization, though it would be preferable for agencies which administer anti-poverty and social safety net programs to have a congressional requirement for public reporting. Until that time, the Administration could make great strides by:

- Explicitly articulating its intention to begin reporting disaggregated data on anti-poverty and social safety net program recipient outcomes by race, ethnicity, and other key equity indicators.
- Identifying what existing data collection systems may be used for this purpose, as well as gaps in such systems and any privacy concerns which would require additional disclosure avoidance per recommendation 1.5 above.
- Issuing guidelines that specify reporting requirements of federal, state, and local implementing partners to ensure data are properly collected with consistent methodologies and definitions and transmitted to the federal level on time.

Articulating an immediate intention to disaggregate anti-poverty and social safety net program metrics and by race, ethnicity, and other key equity indicators and make them publicly available would signal the Administration's good faith in transparently achieving its stated child poverty reduction and racial equity goals. It would also increase the likelihood that civil society actors can meaningfully participate in feedback processes with implementing agencies and equips them to be equal discussion partners. Messaging from OMB or the White House on data disaggregation and publishing would have the added benefit of requiring implementing agencies to inherently keep outcomes by race, ethnicity, and nativity top of mind, thus reinforcing the Administration's commitment to advancing racial equity.

2.3 The Administration must address inequity-producing program requirements and processes in Medicaid and the health-harming effects of the 2019 public charge rule.

In 2017, after years of enrollment gains following the implementation of the Affordable Care Act, enrollment in Medicaid began to decline. From December 2017 through December 2019 Medicaid enrollment declined overall by 3 percent (a decline of 2.2 million enrollees).¹¹ Not surprisingly, there was a correlated increase in the total number of uninsured people in the United States. In 2016, the overall number of uninsured, non-elderly people in the U.S. was at a historic low of 10 percent, but then reversed course and increased steadily through 2019 where it hit 10.9 percent.¹² The uninsured

¹¹ Bradley Corallo and Robin Rudowitz Follow, "Analysis of Recent National Trends in Medicaid and CHIP Enrollment", June 17, 2021, <https://www.kff.org/coronavirus-covid-19/issue-brief/analysis-of-recent-national-trends-in-medicaid-and-chip-enrollment/>

¹² Jennifer Tolbert, Kendal Orgera, and Anthony Damico, "Key Facts about the Uninsured Population", November 6, 2020, available at <https://www.kff.org/uninsured/issue-brief/key-facts-about-the-uninsured-population/>

rate increase was higher for Hispanics compared to all other race and ethnic groups.¹³ (In March 2020, Medicaid enrollment began to increase primarily because the Families First Coronavirus Response Act prohibited termination of Medicaid. In effect, this policy temporarily eliminated churn in the Medicaid program.¹⁴)

Research has shown that Medicaid enrollment declines prior to the pandemic were attributable to several factors.¹⁵ For the purposes of this question we will focus on two: specific Medicaid policies that contribute to churn, and anti-immigrant policies and rhetoric which cause mixed-status families to fear the use of public benefits.

2.3.A. To reduce churn in the Medicaid program, the Administration should clarify the circumstances under which periodic data matching can be used and require Medicaid agencies to prove their automated systems are accurate in identifying changes in income that make a person ineligible by January 1, 2023. Further, CMS should require states to provide at least 30 days for a request for missing information and enforce this requirement. Currently, states must provide 30 days to respond to a request for renewal, however, many states do not adhere to this rule.¹⁶ For requests made outside of the annual renewal process, CMS published guidance in December 2020 which states that “[i]f additional information is needed, it may be reasonable for states to allow beneficiaries 30 days to respond and provide any necessary information.”¹⁷ We urge the Administration to strengthen this guidance by including it in updated regulations.

Many states have implemented policies that make it harder to enroll and maintain benefits. Of particular concern for Latino households are state agencies performing inaccurate, periodic data matching, and not providing recipients sufficient time to respond to requests for missing information before terminating coverage.

Periodic data matching in certain states contributes to the decrease in the child enrollment in Medicaid and CHIP and the increase in the uninsured rate.¹⁸ A recent report from the Assistant Secretary for Planning and Evaluation (ASPE), noted that 30 states used periodic data matching between regular renewals. The report raised concerns that periodic data matching can increase churn in Medicaid,

¹³ Samantha Artiga, Jennifer Tolbert, and Kendal Orgera, “Hispanic People are Facing Widening Gaps in Health Coverage”, November 6, 2020, <https://www.kff.org/policy-watch/hispanic-people-facing-widening-gaps-health-coverage/>

¹⁴ Bradley Corallo and Robin Rudowitz, *National Trends in Medicaid and CHIP Enrollment*

¹⁵ Matt Broaddus and Aviva Aron-Dine, “Uninsured Rate Rose Again in 2019, Further Eroding Earlier Progress”, September 15, 2020, <https://www.cbpp.org/research/health/uninsured-rate-rose-again-in-2019-further-eroding-earlier-progress>

¹⁶ Emmett Ruff and Eliot Fishman “The Return of Churn: State Paperwork Barriers Caused More Than 1.5 Million Low-Income People to Lose Their Medicaid Coverage in 2018”, April 16, 2019, https://familiesusa.org/wp-content/uploads/2019/09/Return_of_Churn_Analysis.pdf

¹⁷ Centers for Medicaid and Medicare Services, “Medicaid and Children’s Health Insurance Program (CHIP) Renewal Requirements”, December 4, 2020, <https://www.medicaid.gov/federal-policy-guidance/downloads/cib120420.pdf>

¹⁸ Kelly Whitener, Steven Lopez, Lauren Roygardner, Matthew Snider, “Decade of Success for Latino Children’s Health Now in Jeopardy”, March 2020, <https://ccf.georgetown.edu/wp-content/uploads/2020/03/Latino-Childrens-Health-Care-Coverage.pdf>

especially if the timeframe for recipients to respond to request for information is too short.¹⁹ As an example, data from the Texas Medicaid agency showed that more than 65,000 children lost Medicaid coverage in 2019 because they failed to provide income verification after the agency performed a periodic income check.²⁰ The agency did not verify that these children were ineligible; instead, the clients were denied coverage because they failed to respond to a request for income verification within 10 days from the date the system created the notice. According to the same data, of the total number of people who “failed” the income check, 30% responded with income verification which proved their income was still below the income limit – meaning Texas’ periodic data matches were inaccurate *at least* 30% of the time.²¹

The Trump administration issued a letter on June 20, 2019 depicting periodic data matching as a best practice to “enhance program integrity,” by identifying, “beneficiaries who may have had a change in circumstance that affects their eligibility.”²² However, as evidenced by the data from the Texas Medicaid agency, periodic data matching can increase churn in the Medicaid program with little evidence that it improves program integrity because it does little to identify actually *ineligible* recipients. Further, periodic data matching can disproportionately impact Latino household because they experience more income volatility compared to white households.²³

The most effective way to reduce churn in Medicaid created by inaccurate periodic data matching and insufficient time to respond to requests for information would be for Congress to pass legislation requiring all states to provide continuous eligibility for children and adults in Medicaid. Short of this, necessary progress would require: 1) the Center for Medicare Services monitoring the use of periodic data matching by states to ensure accuracy in identifying actual ineligible recipients; and 2) updating regulations to require state Medicaid agencies to provide applicants and recipients at least 30 days to respond to any request for information. Taking these steps would advance the Administration's equity goals because of the disproportionate impact these policies have on Latino households who have more volatile income, on average.

2.3.B. By January 1, 2022, the Administration should be actively combatting the health-harming effects of the 2019 DHS public charge rule through outreach and education, as well as a thorough review of all public benefit applications across states, including online applications.

¹⁹ Sarah Sugar, Christie Peters, Nancy De Lew, Benjamin D. Sommers, “Medicaid Churning and Continuity of Care: Evidence and Policy Considerations Before and After the COVID-19 Pandemic”, April 12, 2021, <https://aspe.hhs.gov/system/files/pdf/265366/medicaid-churning-ib.pdf>

²⁰ Texas Children’s Health Coverage Coalition, “Improve Children’s Health: Clean Up the State’s Inaccurate System for Reviewing Children’s Medicaid Eligibility Mid-Year,” March 2021, <https://static1.squarespace.com/static/5b02e658ec4eb7435dcd44d4/t/60634731a2f38529f7abae14/1617119772173/chcc-midyear-eligibility-reviews-2021-v2.pdf>

²¹ Ibid.

²² Centers for Medicare and Medicaid Services, “Oversight of State Medicaid Claiming and Program Integrity Expectations”, June 20, 2019, <https://www.medicaid.gov/federal-policy-guidance/downloads/cib062019.pdf>

²³ Bradley Hardy et al., “Wealth Inequality, Income Volatility, and Race,” December 2018, <https://www.aeaweb.org/conference/2019/preliminary/paper/KZG69HbE>.

The reversal of the public charge rule requires investments in culturally competent and linguistically appropriate outreach, education, and enrollment programs that reach all eligible children and families. Anti-immigrant policies and rhetoric from the Trump administration created a “chilling effect” where families with mixed-immigration status avoided public programs out of fear of immigration related consequences.²⁴ Beginning as early as January 2017, media started reporting the possibility of the Trump administration making changes to the public charge test used during the green card application process. Ultimately, the Trump administration passed a final rule making drastic changes to the definition of public charge. Among low-income immigrant households with children, 1 in 3 reported avoiding a public benefits program in 2019 for fear of risking future green card status.²⁵ This rule was vacated by the courts and withdrawn by DHS in March 2021. However, it will take years to reassure mixed-status household that the use of public programs such as Medicaid, the Children’s Health Insurance Program (CHIP), and the Supplemental Nutrition Assistance Program (SNAP) will not impact green card applications.

While 95% of Latino children are U.S. citizens, about half live in a household with at least one noncitizen parent.²⁶ Ensuring that those in mixed-status households receive information in a way that reflects their unique experiences is important to ensure that all who are eligible for assistance programs are aware of and can access the support they need.

Reducing the chilling effect created by the 2019 version of the public charge rule would require investments from the Administration in culturally competent and linguistically appropriate outreach, education, and enrollment programs aimed at reaching mixed-status households. Taking these steps would advance the Administration's equity goal by reducing the number of eligible Latinos who avoid public benefit programs out of fear and narrowing the racial equity gap in access to health care, adequate nutrition, and other social supports.

Additionally, the Administration should do a thorough review of all public benefit applications across states, including online applications, and seek corrective action when states are found to be out of compliance. Application design and requirements create long-standing barriers to public benefits for mixed-immigration status families: specifically, the request of social security numbers (SSNs) or immigration status for non-applicants.²⁷ U.S. Dept. of Health & Human Services and U.S. Dept. of Agriculture have sent clear guidance to state agencies that immigration status should not be requested for non-applicants and that SSNs maybe requested, but must be clearly labeled as optional.²⁸

²⁴ Jennifer Haley et al., “One in Five Adults in Immigrant Families with Children Reported Chilling Effects on Public Benefit Receipt in 2019,” Urban Institute, June 18, 2020, <https://www.urban.org/research/publication/one-five-adults-immigrant-families-children-reported-chilling-effects-public-benefit-receipt-2019>.

²⁵ Ibid.

²⁶ Kelly Whitener and Alexandra Corcoran, “Getting Back on Track: A Detailed Look at Health Coverage Trends for Latino Children”, June 8, 2021, <https://ccf.georgetown.edu/2021/06/08/health-coverage-trends-for-latino-children/>

²⁷ Food Research & Action Center and the National Immigration Law Center, “Food Over Fear: Overcoming Barriers to Connect Latinx Immigrant Families to Federal Nutrition and Food Programs”, December 2020, https://frac.org/wp-content/uploads/NILC_Latinx-Immigrant-Families.pdf

²⁸ Letter from U.S. Dept. of Health & Human Services and U.S. Dept. of Agriculture to State Health and Welfare Officials, “Policy Guidance Regarding Inquiries into Citizenship, Immigration Status and Social Security Numbers in State Applications for Medicaid, State Children’s

Nonetheless, analyses of state application processes continue to find that this guidance is not always followed.^{29,30}

Reducing the deterrent created by questions for non-applicants on public benefit applications would require the appropriate agencies to review paper and online applications for public benefits to ensure compliance with guidance. Taking these steps would advance the Administration's equity goal by reducing the number of eligible Latinos who avoid public benefit programs out of fear and narrowing the racial equity gap in access to health care, adequate nutrition, and other social supports.

2.4 The Administration should review and adopt proven frameworks to evaluate the psychological costs of administrative burden.

By January 1, 2023, the Administration should review and plan to adopt academic models which provide frameworks for evaluating the psychological costs of qualifying or applying for federal benefits programs,³¹ including the disparate psychological impact on ethnic and racial minorities.³²

Directly measuring the psychological toll of the stress and stigma that people feel when interacting with government programs may be difficult. However, research shows that learning costs (time and effort spent learning about the program and whether one is eligible for services) and compliance costs (provision of information and time spent to document you are eligible for services) are intrinsically linked to the psychological costs of applying for a public benefit.³³ Navigating learning and compliance costs increases stress, a psychological cost. Further, many administrative burdens are tied to racial stereotypes of recipients of government benefits, such as work requirements and drug testing, which imply recipients are less likely to be workers and more likely to be drug users. Cost for compliance with such requirements is two-fold, the time and resources cost and the psychological cost of enduring the stigma.

Therefore, a first step in evaluating psychological costs in program evaluation should be to measure compliance costs and learning costs incurred by applicants. Further, the Administration should evaluate the level at which agencies have adopted options that shift the administrative burden of applying from the recipient to the state, such as use of electronic data for verification, integrated

Health Insurance Program, Temporary Assistance for Needy Families, and Food Stamp Benefits”, Sep. 21, 2000, <https://www.hhs.gov/civil-rights/for-individuals/special-topics/needy-families/triagency-letter/index.html>. See also “Policy Guidance Regarding Inquiries into Citizenship, Immigration Status, and Social Security Numbers in State Applications for Medicaid, State Children’s Health Insurance Program (SCHIP), Temporary Assistance for Needy Families (TANF) and Food Stamp Benefit: Questions and Answers” (U.S. Dept. of Health & Human Services and U.S. Dept. of Agriculture, last revised Mar. 24, 2006, <https://www.hhs.gov/sites/default/files/triagencyq%26as.pdf>).

²⁹ Tanya Broder, Avideh Moussavian, and Jonathan Blazer, “Overview of Immigrant Eligibility for Federal Programs”, December 2015, <https://www.nilc.org/issues/economic-support/overview-immeligfedprograms/>

³⁰ Krista M. Pereira et al., “Barriers to Immigrants’ Access to Health and Human Services Programs”, May 2012, <https://aspe.hhs.gov/immigrant-access-health-and-human-services>

³¹ Donald Moynihan, Pamela Herd, Hope Harvey, “Administrative Burden: Learning, Psychological, and Compliance Costs in Citizen-State Interactions”, February 27, 2014. <https://doi.org/10.1093/jopart/muu009>

Pamela Herd and Donald Moynihan, “How Administrative Burdens Can Harm Health, ” October 2, 2020. <https://www.healthaffairs.org/doi/10.1377/hpb20200904.405159/full/>

³²Ray, Victor E., Pamela Herd, and Donald Moynihan. 2020. “Racialized Burdens: Applying Racialized Organization Theory to the Administrative State.” December 9, 2020. <https://osf.io/preprints/socarxiv/q3xb8/>

³³ Tanya Broder, Avideh Moussavian, and Jonathan Blazer, *Overview of Immigrant Eligibility*

applications for multiple programs, longer certification periods, continuous eligibility, and streamlined enrollment based on eligibility for other programs.

2.6 Key metrics the Administration and civil society need to monitor progress toward equitable outcomes in the administration of anti-poverty and public benefit programs.

By January 1, 2023, the Administration should be in a position to collect, anonymize, and make publicly available the following metrics at regular intervals to support the actions recommended in 2.2 above (i.e., making program data publicly available disaggregated by race and ethnicity). The following programs are highlighted for their critical roles in stabilizing family finances due to pandemic shocks and enabling an equitable economic recovery:

- *Economic Impact Payments (EIPs, or stimulus checks)*: program eligibility by race/ethnicity, EIP receipt via direct deposit among the eligible by race/ethnicity, EIP receipt via paper check among the eligible by race/ethnicity, non-filer portal top-line data by race/ethnicity, program eligible population who have not received a check by race/ethnicity and reason for non-receipt
- *Child Tax Credit (CTC)*: program eligibility by race/ethnicity and SSN/ITIN filer status; program take-up rate by race/ethnicity and SSN/ITIN filer status; CTC receipt via direct deposit among the eligible by race/ethnicity and SSN/ITIN filer status; CTC receipt via paper check among the eligible by race/ethnicity and SSN/ITIN filer status; non-filer portal top-line data by race/ethnicity and SSN/ITIN filer status; program eligible population who have not received the CTC by race/ethnicity, SSN/ITIN filer status, and reason for non-receipt; official outreach data by race/ethnicity and primary language (e.g., # of parent/guardians reached via informational webinars; # of resources made available in plain language and languages other than English, etc.); rejected claims by race/ethnicity and reason for claim denial, fraud claims by race/ethnicity of the recipient
- *Earned Income Tax Credit (EITC)*: program eligibility by race/ethnicity, program take-up rate by race/ethnicity, EITC receipt via direct deposit among the eligible by race/ethnicity, EITC receipt via paper check among the eligible by race/ethnicity, program eligible population who have do not receive the EITC by race/ethnicity and reason for non-receipt, official outreach data by race/ethnicity (e.g., # of parent/guardians reached via informational webinars, # of resources made available in plain language and languages other than English, etc.), data on rejected claims by race/ethnicity, fraud claims by race/ethnicity of the recipient
- *Tax compliance*: tax compliance rates by race/ethnicity and SSN/ITIN filer status; population of children not claimed on tax returns, by race/ethnicity and parental ITIN/SSN filer status; ITIN application & renewal processing wait times
- *Unemployment Insurance*: application rates by race/ethnicity; approval data by race/ethnicity; receipt rates by race/ethnicity; average time from application to receipt by race/ethnicity; additional certification requirements by race/ethnicity; disciplinary actions by race/ethnicity; benefit suspension by race/ethnicity and reason for suspension

Additionally, program data should be made publicly available at regular intervals for all other social safety net programs (e.g., Medicaid, SNAP) by race/ethnicity:

- Program eligibility and take-up rates
- Program application: application and approval rates; average time from application to receipt
- Certification actions: additional actions that may be required of the participant, such as random selection for document verification
- Disciplinary actions: reason for disciplinary action; source of disciplinary action (e.g. case manager complaint vs. customer non-compliance)
- Benefit suspension: suspension rates; reason for suspension; average time allowed to reinstate benefits; reinstatement rates; denial of reinstatement rates; average time from suspension to reinstatement

Area 5. Stakeholder and Community Engagement

5.1 Processes agencies can enact to engage proactively with underserved individuals and communities who are most affected by agency programs, policies, rules, processes, or operations.

The Administration can issue agency guidelines that center the lived experiences of marginalized communities in the development of agency programs, policies, rules, processes, and operations by requiring regular partnership and consultation with community-based organizations (CBOs) and other entities with ties to hard-to-reach communities in the earliest stages of program or policy formulation. Marginalized communities, including Latino and immigrant communities served by UnidosUS and its Affiliate network of nearly 300 CBOs nationwide, are often racially and socially isolated, compounding the vulnerabilities endured by these communities and making them targets for racialized threats. Such risk factors range from misinformation/disinformation campaigns, which can impact voting rights and civic engagement, healthcare access and outcomes, and benefits and programs access; to acts of discrimination, hate, and other civil rights violations. Particularly in the wake of the COVID-19 pandemic, these communities have had to increasingly rely on community-based entities for information, guidance, and support.

The unique positioning of CBOs as bridges between hard-to-reach communities and federal agencies makes them ideal partners to better understand and respond to the unique needs and challenges of underserved households; this kind of expertise is otherwise inaccessible through traditional agency methods of direct community outreach. The Administration should prioritize investment in developing meaningful relationships with a diverse and intersectional set of CBOs, create fora and platforms that allow for regular engagement and calls for input from constituents served by these organizations, and implement streamlined processes for checks or cultural competency “audits” while in the earliest program and policy development stages. Many CBOs have demonstrated records of efficacy and are seen as incubators to test and measure best practices for communication, outreach, and engagement and are thus well-placed to serve as host sites to pilot models for various federal programs and practices. The prioritization and maintenance of stakeholder relationships is integral to meaningfully advancing the goals articulated in Executive Order 13985. The pursuit of true racial equity and inclusion requires redress of historic harms embedded within existing programs and processes, paralleled with

response to and anticipation of novel harms and abuses that arise in the development of new processes, programs, and technologies.

5.7 Digital access and literacy gaps the Administration must address to support Limited English Proficient populations.

By January 1, 2022 the Administration should establish within its Task Force on New Americans a capacity to develop and coordinate an administration-wide response to increase digital access and literacy for Limited English Proficient Populations. The COVID-19 pandemic has inarguably exacerbated longstanding disparities that undermine the economic mobility and integration of immigrant parents in the United States and their children’s prospects for success in school and beyond. Immigrant parents possess a strong desire to support their children’s education and future success, but despite their strengths, immigrant parents disproportionately face serious, compounding barriers to integration and economic mobility. With early childhood, K-12, and adult education systems possessing only limited capacity to address integration skills and topics critical to two-generation success, there is a need for a coordinated effort responsive to the needs of low-income immigrant families, especially those with limited English proficiency, low parental formal education, digital access or digital literacy challenges and/or linguistic isolation, who are overwhelmingly Latinos and other people of color. The administration should address this by:

- Identifying and highlighting effective linguistically and culturally competent practices that provide immigrant parents and primary caregivers with integration knowledge and system navigation support, digital literacy, and independent learning skills.
- Oversee and prepare for replication and expansion a series of pilot programs that: 1) equip individuals with digital literacy skills to ensure, for example, that students and parents can understand the features of common digital devices, navigate the web, set up and use an email account, and seek and identify relevant online information sources; 2) assist students and parents in becoming conversant in a range of integration topics of importance to them—such as the knowledge of U.S. history and civics necessary to become a citizen, an understanding of eligibility rules for safety net programs, and/or strategies to support their children’s or their own education and career success; and 3) support students and parents in developing an individual and family success plans and identifying strategies for achieving their integration goals.

Over one hundred years ago, the U.S. successfully incorporated a wave of predominantly European immigrants into the American economic and social mainstream through Settlement Houses, the establishment of the modern public library system, and universal public education. Developing and demonstrating effective practices to empower the current wave of immigrants of color into America’s mainstream today would ensure their equitable integration through the rest of the 21st Century.

Cross-Cutting Recommendations

The following recommendations apply to all Areas of this RFI.

The Administration should hold itself accountable for ensuring that its efforts to address racial inequalities are fully inclusive of the needs, interests, and aspirations of Hispanic Americans, the nation’s largest ethnic minority. Much of the public conversation on racial justice in the U.S. tends to exclude the Latino community. Someone scanning headlines in conventional media, academic discourse, or pop culture—or for that matter most government pronouncements on racial equity—would never know that Hispanics are 170% more likely to be killed by police, a statistic that itself is likely understated,³⁴ or that Latino students have been the most educationally segregated minority population in the US for decades,³⁵ or that Latinas are paid the lowest wages of any group of workers by far.³⁶ These and other disparities are due in part to systems, policies, and institutions with deep roots in racial animus toward Latinos.³⁷ Thus, as it designs, implements, and evaluates its efforts pursuant to Executive Order 13985, the Administration should:

- Prioritize policies and practices that will reduce socioeconomic disparities experienced by Latinos, since many such equity gaps will not likely surface in the normal course of business.
- Mandate that Hispanic-specific data be fully included in all assessment, benchmarks, metrics, and milestones against which agency policies and practices are measured.
- Periodically review progress toward assuring full inclusion of Latinos in its racial equity efforts, identify gaps and shortcomings, and commit to taking remedial steps as required.

Absent intentional and purposeful intervention, implementation of Executive Order 13985 in a “business as usual” fashion virtually guarantees perpetuation of systemic disparities experienced by the Hispanic community, as well as their erasure, the very phenomena the Executive Order is purportedly designed to address. By contrast, holding itself to a higher standard offers the opportunity to dismantle systems of discrimination within and/or financed by the federal government, thereby setting the stage for transformational reductions in racial disparities experienced by the U.S.’s 61 million Latinos.

Going forward, major administration initiatives related to racial equity should include a significant, intentional, and proactive communications component. Racial issues generally, especially proposals that threaten the status quo, are vulnerable to misrepresentation and misinformation, e.g., recent attacks on “critical race theory,” a label increasingly applied in certain circles to every form of education or training seeking to promote racial equity. Notwithstanding the fact that many forms of racial equity-related education or training have little or nothing to do with critical race theory, attacks

³⁴ UnidosUS (with Raza DataBase Project), “Deaths of People of Color By Law Enforcement Are Severely Undercounted,” Special Advance Fact Sheet, May 2021: [Special Advance Fact Sheet: Deaths of People of Color By Law Enforcement Are Severely Under-Counted \(unidosus.org\)](https://www.unidosus.org/special-advance-fact-sheet-deaths-of-people-of-color-by-law-enforcement-are-severely-under-counted).

³⁵ Gary Orfield, et. al., “Harming Our Common Future: America’s Segregated Schools 65 Years After *Brown*,” The Civil Rights Project, May 10, 2019: <https://www.civilrightsproject.ucla.edu/research/k-12-education/integration-and-diversity/harming-our-common-future-americas-segregated-schools-65-years-after-brown>

³⁶ Elise Gould, “Latina workers have to work nearly 11 months into 2019 to be paid the same as white non-Hispanic men in 2018,” Economic Policy Institute, November 19, 2019: <https://www.epi.org/blog/latina-pay-gap-2019/>.

³⁷ Viviana Lopez Green and Samantha Vargas Poppe, *Toward A More Perfect Union*, Position Paper, April 2021: [Toward a More Perfect Union: Understanding Systemic Racism and Resulting Inequity in Latino Communities \(unidosus.org\)](https://www.unidosus.org/toward-a-more-perfect-union-understanding-systemic-racism-and-resulting-inequity-in-latino-communities)

on equity-promoting practices have catalyzed a significant backlash among some demographics, resulting in adverse policy changes at the state and local level.³⁸ Left unaddressed, these attacks could severely undermine even relatively innocuous measures such as the reinstatement of diversity training of federal employees that the previous administration sought to end. To help create a policy climate more amenable to advancements in racial equity, the Administration should accompany major initiatives pursuant to this Executive Order with communications strategies that:

- Where possible, are grounded in recent public opinion research and polling data.³⁹
- Explicitly link the proposal under consideration to broadly shared “traditional” America values and/or founding documents, e.g., the Declaration of Independence and Constitution.
- Target potential skeptics with proven messages designed to ameliorate or neutralize unwarranted or specious attacks.
- Explain how the proposal under consideration benefits all Americans, not just racial or ethnic minorities.
- Pre-empt likely lines of attack by critics which perpetuate racial stereotypes or leverage the public’s unconscious biases.

The conscious inclusion of such communications strategies to support major initiatives would decrease their vulnerability to misrepresentation and misunderstanding and materially increase their chances of successful implementation. Moreover, as UnidosUS previously communicated to the Administration, wherever possible, the President should be incorporated into core messaging strategies, given his unique standing to be able to articulate his own personal journal on issues of racial equity.

OMB should integrate a racial equity lens into its cost-benefit analysis methodology. A key mechanism for implementing policy is the regulatory process, and OMB’s own role in undermining or supporting practices required to advance racial equity should be part of the Administration’s review,⁴⁰ including ascertaining how the OMB’s Office of Information and Regulatory Affairs (OIRA) itself has been an instrument of unfairness in evaluation of agency rules and guidance.

The conventional approach to cost-benefit analysis measures net economic efficiencies while disregarding distributional effects (however central those effects may have been to the intention of Congress or the agencies). In such an approach, it does not matter whether one person or institution has two dollars while another has none, and the value of an alternative in which each have one dollar

³⁸ See, for example, Domenick Mastrangelo, “Majority of Republicans Think Critical Race Theory Negatively Affects Society, *The Hill*, 06/23/21: <https://thehill.com/homenews/559765-majority-of-republicans-think-critical-race-theory-negatively-affects-society-poll>, and “Americans who have heard of critical race theory don’t like it, *The Economist*, June 17, 2021: <https://www.economist.com/graphic-detail/2021/06/17/americans-who-have-heard-of-critical-race-theory-dont-like-it>.

³⁹ UnidosUS has conducted public opinion research on related issues through its “Rise Above” project, which it would be happy to share with the Administration.

⁴⁰ Indeed, Executive Order 13985 highlights the need for a “comprehensive approach to advancing equity,” subsequently noting this would “require[] a systematic approach to embedding fairness in decision-making processes.”

goes unrecognized, particularly if achieving such an outcome may introduce some forms of purported inefficiency.⁴¹

As the President’s Memorandum on Modernizing Regulatory Review clearly recognizes, ensuring that a new review process will “fully account[s] for regulatory benefits that are difficult or impossible to quantify” and support agency actions that “appropriately benefit and do not inappropriately burden disadvantaged, vulnerable, or marginalized communities,” is essential to transforming OMB’s role in regulatory review from one that reinforces and perpetuates inequality into a more positive and supportive role in addressing racial and economic injustice. We therefore urge OMB to ensure that it is conducting a necessary self-evaluation and implementing a thoughtful set of corrective practices, even as it looks more broadly across the agencies.

The Administration should, By January 1, 2022, complete a review and update of its language access policies in the context of Executive Order 13166, which requires Federal agencies to examine the services they provide, identify any need for services to those with limited English proficiency (LEP), and develop and implement a system to provide those services so LEP persons can have meaningful access to them.⁴² Since its issuance in 2000, the population of people potentially affected by the Order’s mandate has grown by 20%, to 25.5 million residents in the U.S. in 2019, including 4.5 million native-born citizens.⁴³ Ensuring that LEP individuals have meaningful access to the array of federal and federally-funded services in the wake of a pandemic that had significant, disproportionate impacts on Americans of Hispanic descent⁴⁴ has never been greater. However, relevant DOJ guidance on the Order’s implementation has been largely unchanged since its issuance under the Clinton Administration. In part as a result, language access policies appear to have been an afterthought in the implementation of key pandemic relief initiatives, including the Child Tax Credit expansions, Economic Impact Payments to mixed-status families, social marketing campaigns to promote Covid-19 vaccine uptake, to name a few. Because more than half of Latino children reside in immigrant households, failure to communicate effectively through culturally and linguistically appropriate ways risks expanding, rather than reducing, racial disparities in the nation’s pandemic response and recovery. To modernize and improve the effectiveness of Executive Order 13166, the Administration should:

- Take immediate steps to ensure non-English dominant Latino and other LEP households have meaningful access to relief and recovery initiatives, including those listed above.

⁴¹ While President Obama’s EO 13563 did formally recognize the need to weigh considerations such as equity, the review process has afforded such considerations little power in comparison to economic outcomes. E.O. 13563. Improving Regulation and Regulatory Review. Jan. 18, 2011. <https://www.federalregister.gov/documents/2011/01/21/2011-1385/improving-regulation-and-regulatory-review>. Commendably, the President’s Memorandum on Modernizing Regulatory Review asks for, in part: “procedures that take into account the distributional consequences of regulations...to ensure that regulatory initiatives appropriately benefit and do not inappropriately burden disadvantaged, vulnerable, or marginalized communities.” Memorandum on Modernizing Regulatory Review, Jan. 20, 2021. <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/modernizing-regulatory-review/>.

⁴² [Executive Order 13166 | LEP](#)

⁴³ Jeanne Batalova, Mary Hanna and Christopher Levesque, “Frequently Requested Statistics on Immigrants and Immigration in the United States, February 11, 2021, Migration Policy Institute: [Article 2021: Frequently Requested Statistics on I.. | migrationpolicy.org](#).

⁴⁴ See: UnidosUS, *The Latino Community in the Time of the Coronavirus*, White Paper, July 2020: [The Latino Community in the Time of Coronavirus: The Case for a Broad and Inclusive Government Response \(unidosus.org\)](#) and Statement of Janet Murguía, *House Hearings: Committee on Financial Services, February 4, 2021: [Latinos: Overrepresented in Covid Cases, Underrepresented in Relief \(unidosus.org\)](#)*.

- Undertake an Administration-wide review of the status of existing language access policies, perhaps under the auspices of the Task Force on New Americans in conjunction with the DOJ's Civil Rights Division, including extensive engagement with stakeholder groups.
- Promote compliance with language access policies by:
 - Reminding federal officials and recipients of federal financial assistance that EO 13166 is essential to implement Title VI of the Civil Rights Act of 1964 and reaffirming the Administration's intent to vigorously enforce the civil rights laws.
 - Augmenting the "stick" of enforcement with the "carrot" of extensive technical assistance and related support to state and local governments and other recipients of federal financial assistance to develop more cost-effective means—including adoption of cost-saving technologies—to facilitate compliance.

Fully integrating the nation's growing population of immigrants and their U.S.-born family members – the vast majority of whom are people of color—into US society through enhanced language access policies will materially reduce racial inequities in myriad ways, and thus should be a high priority of the Administration.
