

WHAT YOU NEED TO KNOW ABOUT **PUBLIC CHARGE**

AUGUST 2026

On August 18, 2026, the U.S. Citizenship and Immigration Services (USCIS) issued guidance on how public charge will be implemented **starting September 18, 2026**. The guidance comes after the government announced they were removing the current, 2022 Public Charge rule that provided structured and concrete guidance for USCIS officers in making public charge decisions. Now, the new guidance makes it clear that it will be more difficult for many green card applicants to know if their case will be granted. In this community explainer we will address some frequently asked questions on what this change means and how and when it applies.

WHEN DOES THIS GUIDANCE GO INTO EFFECT?

The elimination of the current rule and the new public charge guidance is set to go into effect on September 18, 2026. This means that any application pending, filed, or postmarked on or before September 17, 2026 will be considered under the current 2022 rule. Under the current 2022 rule, only cash assistance for income maintenance and long-term institutionalization at government expense were considered. See below for what has changed.

It is important to check for updates- many organizations will be fighting to block this change. For the latest updates, visit ilrc.org/public-charge.

WHAT IS PUBLIC CHARGE?

“Public Charge” refers to a ground of inadmissibility (a reason that a person could be denied a green card, visa, or admission into the U.S.) that specifically looks at whether someone is likely to depend on government benefits in the future. An

continued...

adjudicator can deny an application for a visa or a green card if they find that the person is likely to become a public charge.

WHEN DOES PUBLIC CHARGE APPLY?

For those in the United States, **public charge applies only to those seeking a green card** (aka lawful permanent residence) via a family-based petition or through a job. The government will consider public charge when they decide the adjustment of status application.

WHO DOES PUBLIC CHARGE NOT APPLY TO?

Public Charge DOES NOT apply to green card applicants who are getting their green card based on: asylum, refugee status, U visa, T visa, VAWA, or Special Immigrant Juvenile Status (SIJS).

Public charge does not affect those applying for other immigration benefits such as naturalization, DACA, Temporary Protected Status, or work authorization.

WHAT WILL BE CONSIDERED UNDER THE NEW GUIDANCE WHEN DECIDING IF SOMEONE IS A PUBLIC CHARGE?

Adjudicators will be able to consider a wide range of factors and make a decision at their own discretion. The government is removing guidance that a good sponsor is usually enough to show that someone would not be a public charge. Once the current rule is removed, adjudicators will be able to consider the use of many means-tested programs (ones that are given because of a family's income level), such as cash assistance, public or assisted housing, financial aid for postsecondary education, food assistance, government funded health coverage or any other similar benefit for which assistance or payments are provided for a person, their household, or eligible family unit.

Previously, only benefits received by the applicant themselves counted. Now, benefits

continued...

used by a family member will be taken into account if the family member is someone the applicant is responsible for supporting and that benefit was granted because of the applicant's income.

Additionally, officers will look at many factors such as age, household size, income and health to decide, at their discretion, whether someone is likely to become a public charge, even if they have a sponsor.

DOES PUBLIC CHARGE APPLY IF I AM GETTING MY GREEN CARD OUTSIDE THE UNITED STATES?

Yes. Many applicants for a green card are not eligible for the adjustment of status process in the U.S. and must instead obtain their green card through their consulate or embassy, a process known as consular processing. Those immigrating from outside the U.S. and those that must leave the U.S. to get a green card will have public charge decided at a consulate or embassy. While this new guidance does not apply to those undergoing the consular process, we expect consulates to follow similar policies. Anyone who must leave to consular process should check in with a trusted attorney or DOJ accredited representative before leaving to assess their risks.

WHAT SHOULD I DO NOW?

What next steps you take will depend on the following two things: (1) does public charge apply to the benefit you are seeking? and (2) have you filed or will you be filing your application for adjustment of status based on a family member or your job?

Step 1: Assess whether public charge applies to you.

Guiding question: Are you eligible for and applying for adjustment of status now or in the near future based on a family or job petition?

Remember, for those in the U.S., public charge only applies if you are seeking a green card through the adjustment of status process based on a family member or employer

continued...

petition. If you are seeking a green card through a U visa, T visa, VAWA, SIJS, or asylum, then the public charge rule does not apply to you. It also does not affect those applying for naturalization, DACA, Temporary Protected Status, or a work permit.

If you are seeking adjustment of status through a family member or job now or in the near future, then proceed to 'Step 2'.

If you are not going to be seeking adjustment of status now or in the near future, or if you are under a process where public charge does not apply, then you do not need to worry about public charge.

Step 2: If you are going to apply or have applied to adjust status through a family member or a job, have you talked to an attorney or DOJ accredited representative?

Guiding question: Have I been screened recently by an attorney or DOJ accredited representative to assess my risks?

If you have already submitted your application for adjustment of status (i.e. Form I-485), you should connect with an attorney or DOJ accredited representative before your interview to discuss how you can respond to public charge related questions that might come up. See chart below.

If you have not submitted your application for a green card and think the public charge rule could apply to you, talk to an attorney or DOJ accredited representative before applying and making a decision about your public benefits! Make sure to get a full screening for any issues your application might present. See chart below.

Public charge is just one factor that the government will use to assess your application, and it is important to have the whole picture when deciding whether to file an application for an immigration benefit. It is important to understand your own circumstances in order to make an informed decision about applying. For help finding legal services in your area, visit ilrc.me/findhelp.

continued...

Already filed or will file my application on or before September 17, 2026	Will file my application on or after September 18, 2026
What counts? Only cash assistance for income maintenance and long-term institutionalization at government expense. Benefits received by relatives? Do not count. Only benefits received by applicant count. Is having a sponsor enough? Generally, yes. What if I continue to receive benefits I already applied and was approved for after September 18, 2026? Benefits received after September 18 will be considered as part of the evaluation of all positive and negative factors unless you provide evidence of disenrollment, withdrawal, or notification to the awarding agency that you no longer want to receive that benefit.	What counts? Any means-tested public benefit. Benefits received by relatives? They count if the applicant is responsible for supporting that relative and the reason they qualified for the benefit is because of the applicant's income. Is having a sponsor enough? No. Having a sponsor will be one factor amongst others and USCIS will also consider your relationship to the sponsor and your sponsor's income level.

Are you a California Community College (CCC) or a California State University (CSU) student? If so, you qualify for FREE immigration legal services!			Discover more community explainers, toolkits, & alerts about immigration law.		
FIND OUT MORE	CCC: findyourally.com	CSU: findyourally.com/csu	FOLLOW US		
					