



COMMUNITY
ALERT

WHAT YOU NEED TO KNOW ABOUT PUBLIC CHARGE

OCTOBER 2026

U.S. Citizenship and Immigration Services (USCIS) is changing how they decide public charge in adjustment of status cases (green card applications where the interview is in the U.S., at a USCIS office). These changes apply to certain adjustment applications *filed on or after* September 18, 2026. Pending adjustment applications that were filed *before* September 18, 2026 will be decided based on prior guidance, referred to as the “2022 Public Charge Rule.” While the 2022 Public Charge Rule provided structured and concrete guidance for USCIS officers making public charge decisions, the new guidance makes it 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.

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 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 U.S., **public charge applies only to those seeking a green card** (lawful permanent resident status) through a family-based petition or through a job. The government will consider public charge when they decide these adjustment of status applications.

continued...

WHO DOES PUBLIC CHARGE NOT APPLY TO?

Public Charge **DOES NOT apply to** green card applicants who are getting their green card based on (or applying for): 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 green card renewal, naturalization, DACA, Temporary Protected Status (TPS), or work authorization.

DID THE NEW GUIDANCE GO INTO EFFECT?

Yes, the new guidance went into effect on September 18, 2026 for adjustment applications filed on or after this date. Any family-based or job-based adjustment application pending, filed, or postmarked on or before September 17, 2026 will be considered under the 2022 Public Charge Rule, no matter when the adjustment interview is. Under the 2022 Public Charge Rule, only cash assistance for income maintenance and long-term institutionalization at government expense can be considered. See below for what has changed. Also see below for information on those who will be seeking a green card through consular processing (where the applicant attends an interview at a U.S. consulate or embassy abroad).

It is important to check regularly for updates- various cities, states, and organizations have sued challenging the new guidance. Although now in effect, it is possible that the new guidance may be paused or halted by the ongoing litigation. For the latest updates, visit ilrc.org/public-charge.

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. For adjustment applications decided under the new guidance, adjudicators can now consider the use of any means-tested public benefits (ones

continued...

that are given because of a family's income level), such as some 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 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.

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. Recently, consular appointments were cancelled worldwide so that consular officers could receive public charge training. Anyone who must leave to consular process should check in with a trusted immigration attorney or U.S. Department of Justice (DOJ) accredited representative before leaving to assess their risks. For help finding legal services in your area, visit ilrc.me/findhelp.

WHAT SHOULD I DO NOW?

What next steps you take will depend on the following two things: (1) Does public charge apply to the immigration relief you are seeking? If it does, (2) have you already filed or

continued...

will you be filing your adjustment application in the future?

Step 1: Assess whether public charge applies to you.

Guiding question: Am I eligible for and applying for a green card now or in the near future based on a family or job petition?

Remember, public charge only applies if you are seeking a green card based on a family member or employer petition. If you are seeking a green card through a U visa, T visa, VAWA, SIJS, or asylum, or applying for a U visa, T visa, VAWA, SIJS, or asylum, then public charge does not apply to you. It also does not affect those applying for a green card renewal, naturalization, DACA, Temporary Protected Status, or a work permit.

If you are seeking a green card 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 a green card 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 already applied for a green card through a family petition 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 (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 adjustment of status, and think the new public charge guidance could apply to you, talk to an attorney or DOJ accredited representative before applying and making a decision about your public benefits! Make

continued...

sure to get a full screening for any issues your application might present. See chart below.

If you will be applying through consular processing, you should consult with an attorney or DOJ accredited representative before leaving the U.S. to attend your interview.

Public charge is just one factor that immigration officials will use to assess your green card application. 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](https://ilrc.me/findhelp).

Filed adjustment of status application on or before September 17, 2026	Filed or will file application for adjustment of status on or after September 18, 2026
<p>What counts? Only cash assistance for income maintenance and long-term institutionalization at government expense.</p> <p>Benefits received by relatives? Do not count. Only benefits received by applicant count.</p> <p>Is having a sponsor enough? Generally, yes.</p>	<p>What counts? Any means-tested public benefit.</p> <p>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.</p> <p>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.</p>

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			