



PUBLIC CHARGE TIMELINE

JANUARY 3, 2018

DOS revises Foreign Affairs Manual (FAM) guidance on public charge

OCTOBER 10, 2018

DHS publishes proposed public charge rule in Federal Register

DECEMBER 10, 2018

Public comment period closes for proposed DHS public charge rule (more than 260,000 comments submitted!)

AUGUST 14, 2019

DHS publishes final public charge rule in Federal Register, with 10/15/19 effective date

OCTOBER 11-14, 2019

Multiple courts issue preliminary injunctions of final DHS public charge rule

OCTOBER 11, 2019

DOS publishes public charge interim final rule in Federal Register, with 10/15/19 effective date; implementation delayed awaiting finalization of new form, DS-5540 Public Charge Questionnaire

JANUARY 27, 2020

Supreme Court lifts last remaining nationwide injunction blocking DHS rule; DHS then says rule will take effect 2/24/20 everywhere except Illinois

FEBRUARY 20, 2020

DOS announces will start applying new rule 2/24/20 now that DS-5540 finalized

FEBRUARY 21, 2020

Supreme Court allows new DHS rule to take effect in Illinois too

FEBRUARY 24, 2020

New DHS and DOS public charge rules go into effect everywhere

JULY 29, 2020

New DHS rule enjoined nationwide during declared national emergency related to COVID-19 pandemic; new DOS rule and 2018 FAM guidance enjoined nationwide indefinitely

LEGEND

- DHS/USCIS
- DOS/Consulates
- DHS/USCIS and DOS/Consulates

SO WHERE ARE WE NOW?

On July 31, 2020, USCIS published an [alert](#) on its website explaining its interpretation of the July 29, 2020 injunction blocking its 2019 public charge rule and how it intends to implement it.

As long as the injunction is in place, USCIS will not apply its 2019 public charge rule in *any* applications or petitions it adjudicates on or after July 29, 2020, regardless of when they were filed, for any period during which there is a declared national emergency in response to COVID-19. This means that old public charge guidance from 1999 now applies to adjustment of status cases, as it had from 1999 up until February 24, 2020. USCIS stated that it will not consider information provided on new Form I-944, Declaration of Self-Sufficiency, or other information specific to the 2019 rule, and instructed that applicants and petitioners whose submissions are postmarked on or after July 29, 2020 should not include Form I-944 or provide information about the receipt of public benefits on Form I-485. The agency stated that it will issue further guidance regarding the use of affected forms, but in the interim, it will not reject any Form I-485 based on the inclusion or exclusion of Form I-944.

DOS has not yet issued guidance on its interpretation of the July 29, 2020 injunction blocking its 2019 public charge rule. However, based on the broad wording of the DOS injunction, which bars the agency from “enforcing, applying, implementing, or treating as effective the 2018 FAM Revisions (and) DOS Rule,” we anticipate that DOS will not apply its 2019 public charge rule in *any* visa adjudications while the injunction remains in place. Consular officers should follow DOS guidance from before the January 3, 2018 FAM revisions, and should not use its new public charge form, DS-5540 Public Charge Questionnaire.

Note that litigation challenging the DHS and DOS public charge rules, 2018 FAM revisions, and related issues is ongoing.

Check our [Public Charge Page](#) for further updates.