



# 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

**AUGUST 7, 2020**

DOS posts update indicating it will comply with July 2020 DOS injunction and revised guidance forthcoming

**AUGUST 12, 2020**

Second Circuit limits July 2020 DHS injunction to New York, Connecticut, and Vermont only

**SEPTEMBER 11, 2020**

Second Circuit grants government's motion to lift July 2020 DHS injunction nationwide

## LEGEND

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

## SO WHERE ARE WE NOW?

The DHS new public charge rule has stopped and started various times now, from a delayed start date in February 2020, to a brief halt in response to COVID-19 in late July 2020, to court decisions in August and September 2020 that chipped away at the pandemic-related July DHS injunction. Now, following the Second Circuit's September 11, 2020 order granting DHS's motion to stay the July DHS injunction nationwide, USCIS may resume implementation of its new public charge rule everywhere. USCIS has updated its [webpage](#) on the public charge litigation, stating that it intends to apply the new public charge rule to all applications postmarked on or after February 24, 2020, including those filed over the summer which may be missing Form I-944. For these cases, USCIS will issue a Request for Evidence (RFE) for the missing forms and evidence. After October 13, 2020, any adjustment applications filed without all required forms and evidence, including an I-944 if the applicant is subject to public charge, will be rejected.

The DOS new public charge rule remains enjoined, as of September 14, 2020, in accordance with the July 29, 2020 order. On August 7, 2020, DOS posted an [update](#) conveying its intent to comply with the July 2020 DOS injunction. Visa applicants are not required to complete the DS-5540 Public Charge Questionnaire or present it during visa interviews. DOS has also indicated that it is updating its guidance to consular officers on how to proceed under the preliminary injunction. DOS has provided a limited update to its [FAM guidance on public charge](#), directing consular officers to refuse visa applicants under INA § 221(g) (i.e., a visa refusal because of a "documentary problem"), not INA § 212(a)(4) (i.e., a visa refusal because of a "substantive problem"—in this situation, public charge), if they believe an applicant may be ineligible for a visa under INA § 212(a)(4) or want to ensure they are not relying on enjoined FAM guidance on public charge. Officers who refuse visa applicants under INA § 221(g) must request an advisory opinion explaining the basis for their belief that the applicant may be ineligible under INA § 212(a)(4). The FAM guidance on public charge prohibits consular officers from finding any visa applicants ineligible for admission under INA § 212(a)(4) until they have received a response from the Office of Legal Adviser for Consular Affairs.

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.