I. Introduction

Unless they are in a category of visa that has a public charge exemption, immigrants and nonimmigrants seeking entry to the United States are subject to screening for public charge inadmissibility under INA § 212(a)(4). Implementation of a new rule on public charge began at the State Department (DOS) for persons who are consular processing on the same date that United States Citizenship and Immigration Services’ (USCIS’) new public charge rule became effective, February 24, 2020. DOS also published accompanying guidance in the Foreign Affairs Manual (FAM), and published a new form, the DS-5540, Public Charge Questionnaire, to gather additional information from applicants about public charge admissibility. This 2020 FAM guidance and the DS-5540 replace prior guidance that had been issued by DOS on public charge on January 3, 2018.

This practice advisory will review and summarize the current provisions of the FAM, describe the DS-5540, and give practice tips on how to complete it for persons who are consular processing, particularly in the family visa categories. The DOS rules in the FAM are similar but not identical to the regulations and guidance that USCIS has published in their Policy Manual. In particular, the DOS guidance differs from USCIS rules regarding: counting household size; requiring certain financial documents such as credit reports; how status as a primary caretaker relates to public charge factors; and the description of the enumerated factors which will be considered in making a determination of public charge inadmissibility.

II. Overview of New Changes

The USCIS form I-944, Declaration of Self Sufficiency, is very different and vastly more complicated than the four-page DOS form DS-5540, Public Charge Questionnaire. However, the FAM outlines more detailed criteria and factors for the actual consular adjudication than are expressly requested on the DS-5540 form itself.

Implementation time has varied for these new regulations between USCIS and DOS, as well. DOS put the new standards into effect immediately on February 24, 2020, even for persons who had already been documentarily qualified and were scheduled for interview by the National Visa Center, which reviews applicants’ documents prior to scheduling. Effective February 24, 2020, consular officers must conduct interviews according to the new guidance. If applicants haven’t already submitted the DS-5540, officers will
need to either provide an opportunity to comply with the new form and documentation by rescheduling or by allowing return visits or later submission of the form to consulates.\(^6\) The instructions to the DS-5540 state that if an officer can assess a visa applicant favorably without the form the applicant will not be required to present it. Otherwise, the form must be provided, and applicant must be given an opportunity to complete it. The required documentation for the DS-5540 includes a most recent year’s tax transcript or tax return and evidence of health insurance, where applicable.\(^7\)

USCIS’ public charge rule also had an effective date of February 24, 2020. However, applicants who filed I-485 adjustment applications prior to February 24, 2020 will continue to be adjudicated under the former standards for public charge, while the new rule applies to all persons who filed adjustment applications on or after February 24, 2020.\(^8\)

The FAM uses the totality of the circumstances factors to determine under INA § 212(a)(4) whether the applicant is likely at any time in the future to become a public charge and defines public charge to mean an applicant who receives one or more designated public benefits for more than 12 months in the aggregate within any 36-month period, beginning on February 24, 2020. The regulation, however, appears to state that this period would be the 36 months immediately prior to the adjudication of the visa application. Receipt of benefits in that time period would be a heavily weighted negative factor.\(^9\)

A qualifying I-864 Affidavit of Support is an absolute requirement for successful family-based applicants to whom it applies, but additional factors must be considered for a successful applicant, as well.\(^10\)

**III. Factors Considered**

In its discussion of public charge factors for the totality of the circumstances test, the FAM specifically identifies both positive and negative factors, and additionally provides a list of heavily weighted negative and heavily weighted positive factors which require particular attention.

**A. Age**

Age is a factor to consider in every case as to whether it makes an applicant more likely than not to become a public charge by impacting ability to work and whether it increases potential for healthcare costs. An applicant between the ages of 18 and 61 is considered to have a positive factor in the public charge analysis. If applicant is younger than 18, DOS officers are instructed to look at whether there is a guardian or parent accompanying the applicant, or the child applicant is following to join a parent or guardian, and if not, age is a negative factor. For applicants age 62 or older, age is a negative factor if it adversely affects ability to work or potential healthcare costs which would be publicly funded.\(^11\)

The DS-5540, however, only asks for an applicant’s date of birth without requesting more information to overcome negative factors. If age impacts an applicant, the applicant should consider affirmatively supplying relevant documentation of financial resources, employment, and health insurance.
B. Health

The FAM directs officers to consider the applicant’s health conditions which make it more or less likely the applicant will become a public charge in the future. A diagnosis for a medical condition that will require extensive medical care or institutionalization, or that will interfere with the applicant’s ability to self-support, attend school or work after admission must be considered.12

Prior to consular interviews, applicants must be medically examined for health admissibility under INA § 212(a)(1) by panel physicians and submit the results for their interview.13 The DOS has a system of Class A and Class B for designating certain medical conditions.14 Class A conditions make an applicant inadmissible, while Class B conditions require further review to determine whether expected treatment and costs trigger public charge inadmissibility.

Although the health grounds of inadmissibility fall under INA § 212(a)(1) separately from public charge under INA § 212(a)(4), they are interrelated because of the consequences and health care costs of certain conditions. For public charge, the FAM instructs officers to consider the impact that a medical condition or its treatment will have on ability to work upon admission, attend school, or pay for needed healthcare. Medical conditions that might affect employment, increase the likelihood of future medical expenses unlikely to be covered by health insurance, or otherwise impact applicant’s ability to support themselves and their dependents are considered a negative factor in the totality of the circumstances. DOS officers are directed to consider evidence of health insurance for any reasonably foreseeable medical expense, especially if there is a condition that is likely to require extensive treatment.15

A heavily weighted negative factor is a medical condition that is likely to require extensive medical treatment or institutionalization or interfere with the ability to work or attend school. It also includes a medical condition where the individual lacks health insurance or the prospect of obtaining it and does not have financial resources to cover health expenses.16

Almost all the information the consular officer will examine regarding health and its impact on public charge will be in the medical exam results that are required for family immigrant visa applications. The new form DS-5540 asks a few questions about health insurance and whether an applicant will be covered by health insurance within 30 days of entry into the United States, a requirement which derived from a Presidential Proclamation that is currently enjoined.17 The DS-5540 does not distinguish between various forms of health insurance and does not ask for a copy of a policy with details on coverage, unless the applicant states that they already have health insurance in the United States, in which case a copy of the policy may be requested.

C. Family Status and Household Size

Household size is important, in part, because it dictates how much income an applicant needs to show to demonstrate that they exceed the Federal Poverty Income Guidelines (FPG). Household size can be a negative factor in the FAM public charge assessment if it reduces the overall household income to a level at or below the required 125 percent (or 100 percent if active duty in the U.S. Armed Forces) of the FPG.18 The income requirement per household goes up based on the number of people in the household. Household size for public charge is not calculated the same way that it is for purposes of a sponsor completing an I-864 Affidavit of Support.
Example: Mr. Rivera lives in the U.S. with his family but must apply for an immigrant visa at the U.S. consulate in Ciudad Juarez. If successful, he will be returning to live with his two children and his lawful permanent resident (LPR) wife in the United States. He is the primary breadwinner for his family, and his latest joint tax return with his spouse shows an adjusted gross income of $30,000.00. Since the FPG at 125 percent for a household of four for 2020 is $32,750, he will need to present other evidence of income and financial resources to avoid being negatively assessed on household size. If he has also submitted a form I-864 Affidavit of Support from a joint sponsor with high income who is deemed credible by DOS, that could help, as could other assets (those that can be converted to cash within a year), as well as any documentation showing that his income is expected to rise over the coming year. If Mr. Rivera is using assets, their value must be at least five times the difference between the applicant’s household income and the FPG required for the household size at 125 percent. Mr. Rivera owns a home with his spouse. The recently appraised value of the home is $100,000, and the Riveras have a mortgage balance of $80,000 on the home. So, this asset has a present value of $20,000, which is more than five times the difference between Mr. Rivera’s income of $30,000 and his FPG of $32,750 – or $2750. Mr. Rivera’s income and assets total $34,000, more than 125% of his household FPG of $32,750.

For public charge, the FAM counts the applicant’s household size based on expected family members of the household that will be living with the applicant after admission to the United States, and notes that “the applicant’s household size after admission may or may not be the same as the sponsor’s household size, which is used to determine whether a sponsor’s submitted form I-864 meets the [Federal Poverty Guidelines] FPG.”

Based on the FAM, an applicant does not need to count family members who would continue to reside abroad, unless the applicant provides at least 50 percent of their financial support or these family members are listed as dependents on the applicant’s tax return.

The FAM has detailed instructions on who must be counted as part of the household. If the applicant is over 21 years of age or is married the household includes: the applicant; the spouse of applicant if they will be physically residing with the applicant after admission; children who will be physically residing with the applicant after admission; other children to whom applicant is required to provide at least 50 percent support, as shown by a support order or “any other order or agreement” specifying the amount of financial support to be provided by the applicant; any other individuals (including a spouse not living with applicant after admission) whom the applicant supports at least 50 percent or who are listed as dependents on applicant’s most recent tax return; and any individual who provides at least 50 percent of applicant’s support.

Example: Mr. Rivera from the example above has a third child who lives with an ex-spouse, but Mr. Rivera is only required to provide 40 percent of the child’s support. That child does NOT have to counted as a member of Mr. Rivera’s household. But if Mr. Rivera included a niece in Mexico on his last tax return, that niece will be included as a member of his household even though not living with his family, and the income that Mr. Rivera will need to demonstrate will be higher.
There is a separate formula for household size when calculating for a child applicant. In that case, one must count: the applicant; the applicant’s children who intend to reside with applicant in the United States; any other children for whom applicant is required to provide at least 50 percent of their support; the applicant’s parent or guardian, or any other person required to provide at least 50 percent support to the applicant; applicant’s parents’ or guardians’ other children intending to reside with the applicant; the parents’ or guardians’ other children not physically residing with applicant for whom the parent or guardian provides at least 50 percent of their support; and any other individual listed as a dependent on the federal income tax return of the parent or guardian or to whom the applicant’s parent or guardian is required to provide at least 50 percent of their financial support.\(^{23}\)

**Example:** Zarifa is immigrating through her LPR mother Elham and is presently 19 years of age. Zarifa lives in Afghanistan. Zarifa has one child, Hamza, age one year, who will immigrate with Zarifa as a derivative child. Zarifa’s two U.S. citizen siblings, Saba and Rafia, are already living with Elham in the U.S. In addition, mother Elham is married and living with Hamid, Zarifa’s stepfather. Elham also has a son, Abdul, age 20, who lives in another city, and is going to college. Elham provides 50 percent of Abdul’s support and lists him on her tax return. Another daughter, Roya, is 18 years old. She lives nearby and supports herself. Finally, Zarifa’s grandmother, her mother’s mother, lives with Elham and her husband, is supported by them and is listed on their tax return. Zarifa’s household size is eight. Her own child, her mother, stepfather, grandmother, two U.S. citizen siblings, her brother and Zarifa herself all count as part of her household.

None of the detailed FAM instructions on whom to count in the household size are included in the DS-5540, which merely requests that applicant list the expected members of the household in the United States, providing their names, ages, relationship to applicant, current job, whether or not they are a U.S. citizen, and finally whether the person listed was in the U.S. Armed Forces while receiving a public benefit.\(^{24}\)

**D. Income**

The DS-5540 also requests information related to income. The applicant must state their gross income as listed on the last three years of U.S. federal tax returns (and whether a U.S. tax return was filed each year) and submit a copy of the entire last year’s tax return or a tax transcript. If the applicant worked in the United States the last three years but did not file a tax return for one or more of those years, an explanation is requested. Current yearly compensation for employment is requested, which appears to refer to either U.S. or employment abroad, and if a job is awaiting the applicant upon arrival in the United States, the form requests the amount the applicant will be paid annually for such employment. Finally, the form asks for a list of any additional types and amounts of income that might still be received once the applicant is in the United States, such as rent, pension, stock dividends, etc., as well as an indication of how often that income would be received. All monetary amounts are requested in U.S. dollars.\(^{25}\)

According to the FAM, household income (including assets and other resources) that is at least 125 percent of the FPG for the household size is a positive factor, while less than that is a negative factor in the public charge assessment.\(^{26}\) The FAM instructs officers to examine both the I-864 Affidavit of Support and the DS-5540 to determine if sufficient income exists to support the household.
On the other hand, the officer must deem household income, assets, and resources which add up to 250 percent or more of the FPG as a heavily weighted positive factor. The same is true if the applicant has employment authorization, is employed, and has income of at least 250 percent of the FPG. However, if the applicant has employment authorization, but no employment history, and no job offer, such facts will constitute a heavily weighted negative factor.

E. Affidavit of Support I-864

According to the FAM, the I-864 Affidavit of Support is one of the documents that DOS officers will review in making a public charge assessment, but it is only to be considered as “one factor among many, and is not outcome determinative in the totality of the circumstances.” A properly filed, sufficient and non-fraudulent I-864 is a requisite and positive factor in the public charge analysis for a family visa applicant. The lack of a sufficient I-864 will necessarily result in a denial based on public charge. The likelihood that the Affidavit of Support sponsor will support the applicant may also be considered by the DOS officer. In this regard, many applicants have been submitting short declarations from joint sponsors, explaining their relationship to the immigrant visa applicant, and reaffirming their intention and motivation to provide any necessary support in the future to the applicant.

F. Financial Status, Assets and Resources

To recap, under the FAM, it is a positive factor if the applicant’s household income is at least 125 percent (100 percent if in Armed Services) of the FPG, based on the number of persons in the household.

Income and resources that count include assets that are at least five times (or three times for immediate relative spouse or child age 18 through 20 of a U.S. citizen) the difference between the applicant’s household income and the FPG required for the household size at 125 percent of the FPG. Sponsors of orphans or adoptees need prove only that the cash value of the assets equal or exceed the difference between household income and the FPG. The assets can include: banks account statements covering the 12 months prior to filing the application; non-cash resources such as the net cash value of real estate that can be converted to cash within 12 months, minus the value of any mortgages owed on that resource; annuities, securities, retirement and educational funds, insurance policies, and any other income from business investments.

The DS-5540 requests a listing of information on cash assets such as bank accounts, and non-cash assets, including real estate, annuities and securities, with a separate listing of debts or liabilities. The assets should be specified by type, location and amount; liabilities are listed by type and amount.

With regard to assets, resources and financial status, the FAM instructs that, “[u]nless specified in the DS-5540, applicants are not required to submit supporting documentation.” However, the consular officers have discretion to request financial documents if needed to assess the adequacy of finances, including bank deposits, real estate or property ownership, stocks, insurance policies, or income from business, as well as those of any household members. Because household income and assets are referenced in the FAM, the visa applicant should be allowed to submit evidence of income and assets from all those persons considered part of the household as set out by the DS-5540.

The DS-5540 asks applicants to list liabilities or debts, and the dollar value of those debts. There is a drop-down list that asks for mortgages, car loans, credit card debt, education-related loans, personal loans, and
other debts. The FAM doesn’t specify that debts are a negative factor, but they certainly will likely be part of the overall assessment of finances in the totality of the circumstances.

The DS-5540 requests very few documents specifically, other than IRS tax transcripts (or a copy of the complete tax return) for the most recent federal tax year. The other document that the DS-5540 requests is evidence of health insurance for those who are currently covered in the United States (see below). However, consular officers can request more documents if they find it necessary to assess public charge, and applicants can bring additional supporting documents to their interview to corroborate financial assets, employable skills and/or financial liabilities or other information which they provided on the DS-5540.

G. Health Insurance

Health insurance information is requested on the DS-5540, and if an applicant states that they are currently covered in the United States the form directs them to attach evidence. If the applicant indicates that they will be covered within 30 days, they are asked to identify the specific health plan and the date coverage begins. In their assessment of assets and resources, the FAM advises officers to consider whether an applicant has private health insurance or other resources that would cover reasonably foreseeable medical care in the United States.

The FAM deems health insurance coverage to be a heavily weighted positive factor if an applicant has private health insurance for use in the United States covering the period the applicant is expected to remain in the United States.

H. Fee Waivers

The DS-5540 asks the visa applicant whether they have ever received a fee waiver when applying for a USCIS benefit. Note that this question exceeds the regulations of both DOS and USCIS in several ways: the regulations state that only fee waivers received after the February 24, 2020 effective date of the rule, and only those that were for benefits to which the public charge inadmissibility grounds applied, are to be considered in the public charge assessment.

The DS-5540 asks for fee waivers received at any time, and asks applicant to list the form number and receipt number for the application.

The FAM adheres to the narrow language of the regulation and states that fee waivers should be considered for public charge only where “the applicant has received an immigration benefit fee waiver from USCIS on or after February 24, 2020, unless the fee waiver was applied for and granted as part of an application for an immigration benefit to which the public charge grounds of inadmissibility does not apply.”

However, applicants should consider that the consular officer may investigate with USCIS what income, expenses and receipt of public benefits the applicant may have listed on the USCIS fee waiver application. These prior statements could be then compared to statements made on the DS-5540, in making a determination of public charge at the consulate, whether based on the specific public charge rules, or as a totality of the circumstances assessment. Applicants should be prepared to explain and document how their financial circumstances have improved since the fee waiver was received in the past.
There are no DOS instructions nor regulations regarding fee waivers or public benefits that may have been received in the past by sponsors who file I-864 Affidavits of Support. Such fee waivers and benefits received are not relevant to the public charge analysis at the consulates.

**Example:** Mr. Jean is scheduled to consular process in Haiti for an immigrant visa in 2020. He is applying based on his marriage to a U.S. citizen. In prior years, he had filed for temporary protected status (TPS) several times, each time with a request for fee waiver, I-912, which was granted – the last one in 2018. Will he have a negative factor applied to him when his public charge admissibility is judged for the immigrant visa?

He should not, for two reasons. First, TPS is not subject to the public charge inadmissibility grounds, pursuant to the TPS regulations. Secondly, Mr. Jean’s fee waiver requests were received and adjudicated prior to February 24, 2020, so even if they were for an application that was subject to the public charge grounds, they should not count against him, according to the DOS regulations and the FAM. However, Mr. Jean would be wise to submit sufficient documentation to demonstrate that in the totality of the circumstances he will be able to sufficiently support himself, or that his sponsor(s) will do so, without the need for future public benefits.

I. Education and Skills

The DS-5540 requests information on the applicant’s level of education, specifically whether applicant has a high school diploma or the equivalent, and requests information with respect to occupational skills, certifications/licenses, license numbers and dates of expiration.

The FAM directs officers to consider both positive and negative factors that may be associated with education and skills as they relate to ability to obtain employment and maintain sufficient income. To make that assessment, officers are to consider employment history, educational level (high school or above), occupational skills and language proficiency. While the DS-5540 does not request information on employment history, some of that information will be collected on other forms, such as the DS-260 electronic immigrant visa application form. Questions relating to language skills are also on the DS-260 only.

Despite a lack of employment history, if an individual is a primary caregiver, not employed outside the home, the FAM directs officers to consider that as a positive factor. However, the FAM also states this is a positive factor “particularly if the caregiving responsibility will end when the alien travels to the United States.”

Primary caregiver is defined as an individual 18 years old or older with significant responsibility for actively caring for and managing the well-being of a minor, elderly, ill, or disabled person residing in the person’s household. The FAM does not address the situation of a primary caregiver who is already providing care for a U.S. citizen or LPR within the U.S., or who is coming to the U.S. to provide such care. Income and payments from local, state and federal governments to the U.S. citizen or LPR to employ a caregiver should be taken into account as expected employment for the caregiver. Any other assets and resources which are available to such a household should be documented and counted. Such income may include Supplemental Security Income (SSI), retirement, other insurance and benefits payable to the person receiving such care.
J. Public Benefits

One of the most critical sections of the DS-5540 and the related part of the FAM is the section that directs officers to consider whether the applicant has applied for, been certified to receive, been approved to receive, or received one or more designated public benefits on or after February 24, 2020, or whether the applicant has disenrolled or requested to be disenrolled from such benefits. This does not apply to members of the U.S. Armed Forces or for anyone exempt from the public charge grounds of inadmissibility.

The designated public benefits that are enumerated in the regulation and the FAM appear on the DS-5540, Question 11: any federal, state, local or tribal cash assistance for income maintenance, including SSI and Temporary Assistance to Needy Families (TANF); Supplemental Nutrition Assistance Program (SNAP), commonly known as food stamps; Housing Choice Voucher Program under Section 8; federal rental assistance under Section 8; Section 9 public subsidized housing; or Medicaid. There are exceptions carved out for receipt of certain specified Medicaid benefits, which will not be considered as public benefits under the new rule, including Medicaid benefits received for emergencies, under the Individuals with Disabilities Act (IDEA), school-based services or benefits to individuals of secondary school age, benefits received by those under 21, or benefits received by a woman during pregnancy or during the 60-day period beginning on the last day of the pregnancy.

Prior to February 24, 2020, receipt of only a few public benefit programs was relevant to the public charge assessment, specifically: benefits received as cash assistance for income maintenance, such as SSI, TANF cash benefits, and state or local general cash assistance for income maintenance.

An applicant who has received, been certified for, or been approved to receive one or more of the above enumerated public benefits on or after February 24, 2020, or for more than 12 months in the aggregate within the 36-month period prior to the adjudication of the visa is subject to a heavily weighted negative factor. Receipt of two such benefits in one month is counted as if the applicant actually received two months of benefits. This means that someone who received two of the enumerated public benefits for over six months, and such benefits were received in the last 36 months prior to the immigrant visa adjudication, would as a result suffer a heavily weighted negative factor leading to a potential public charge finding.

IV. Who Must Submit the DS-5540

The DS-5540 must be submitted by all visa applicants who are subject to the public charge grounds of inadmissibility, including immediate relatives, persons in family-based or employment-based visa categories, and diversity visa applicants. Those not subject to public charge inadmissibility, including VAWA applicants, Afghan and Iraqi interpreters, and other specifically exempt groups need not submit the DS-5540. Nonimmigrant visa applicants may be requested to submit the form if the consular officer deems it necessary to evaluate public charge inadmissibility.

Only one DS-5540 needs to be submitted by the principal applicant for a family that lives together if they are interviewing together at the consulate as a family unit.
V. Conclusion

The new DOS rules and forms present a host of challenges to immigrant visa applicants and their advocates. Carefully note the differences between DOS and USCIS rules for clients who are consular processing because DOS emphasizes different factors and supporting documents than USCIS does. ILRC will continue to update practice advisories as advocates begin to report back on experiences with consulates under the new regime.
End Notes


2 9 FAM 302.8.


5 9 FAM 302.8.

6 9 FAM 302.8-2(B)(2)(5) states that officers “must make every effort to inform applicants in advance of the visa interview of supporting documents that will help you resolve a public charge determination. This could include a request that applicants complete and upload the DS-5540 to the CEAC, or bring it with them to the interview...” It also states that, “you must provide applicants an opportunity to provide a completed DS-5540 before you refuse an application under INA § 212(a)(4).”


10 9 FAM 302.8-2(B)(1)(a). The Affidavit of Support requirements that pre-existed the 2019 regulations are detailed in 9 FAM 601.14 and continue to be in effect. The FAM has also added new instructions on the Affidavit of Support as follows: “You may consider an Form I-864, Affidavit of Support that meets all applicable regulations, in those cases where it is required, a positive factor in the totality of the circumstances -if you believe, based for example on the relationship between the applicant and the sponsor, that the sponsor is likely to actually provide the applicant with the statutorily-required amount of financially support, if needed. An applicant who is required to submit an Form I-864 under INA 213A and who fails to submit a sufficient Form I-864 is ineligible under INA 212(a)(4).” 9 FAM 302.8-2(B)(2)(h)(emphasis added).

11 9 FAM 302.8-2(B)(2)(b).

12 9 FAM 302.8-2(B)(2)(c).

13 Some consulates require the applicant bring the medical exam to the visa interview in a sealed envelope, others require the panel physician to submit the medical exam directly to the consulate. Applicants should always request an unsealed patient copy from the panel physician.

14 Class A and Class B medical conditions are defined at 42 CFR §34.2.

15 9 FAM 302.3-2(B)(2)(c).

16 9 FAM 302.8-2(B)(2)(i)(1)(c).


19 If a recent formal appraisal is not available, many practitioners have had success in the past using Zillow or similar online free appraisal sites as documentation of the current value of residential real estate.

20 9 FAM 302.8-2(B)(2)(d).

21 Id.
24 DOS, DS-5540, Public Charge Questionnaire, Part 3. Under the regulations, receipt of the enumerated public benefit programs does not count against applicant if the benefit was received by a member of the U.S. Armed Forces in active duty or ready reserve, nor does it count in the public charge analysis for the spouse or child of such an individual, 84 Fed. Reg. 54996, 55014 (Oct. 11, 2019).
25 DOS, DS-5540, Public Charge Questionnaire, Part 4, 6-8.
27 9 FAM 302.8-2(B)(2)(i)(2).
28 9 FAM 302.8-2(B)(2)(i)(1).
29 9 FAM 302.8-2(B)(2)(7)(a).
30 Id.
31 9 FAM 302.8-2(B)(3a.3).
32 9 FAM 302.8-2(B)(2)(h).
33 9 FAM 601.14-2b.(1)(a). Immediate relative children of U.S. citizens who will be under age 18 and coming to reside in the custody of their U.S. citizen parent at the time of immigration are completely exempt from the I-864 affidavit of support requirement. The same is true for those children who are orphans or other adoptees who will immigrate before age 18 and acquire citizenship upon admission. 9 FAM 601.14-2b.(1)(a).
34 DOS, DS-5540, Public Charge Questionnaire, Part 4, 9-10.
35 9 FAM 302.8-2(B)(2)(e)(3).
36 9 FAM 302.8-2(B)(2)(e)(3).
37 DOS, DS-5540, Public Charge Questionnaire, Part 4, Question 10.
38 DOS, DS-5540, Public Charge Questionnaire, Part 4.
39 AILA, Department of State/AILA Liaison Committee Meeting (Mar. 5, 2020) AILA Doc. 20031030.
40 DOS, DS-5540, Public Charge Questionnaire, Part 2.
41 DOS, DS-5540, Public Charge Questionnaire, Part 2.
43 9 FAM 302.8-2(B)(2) e.(c)(iv).
44 8 CFR § 244.3.
46 9 FAM 302.8-2(B)(1)b-e.
47 DOS, DS-5540, Public Charge Questionnaire, Question 11.
48 22 CFR §40.41(a)(9); 9 FAM 302.8-1(B)(1)(f).
49 22 CFR §40.41(a)(8)(i)(B).
50 Id., 9 FAM 302.8-2(B) (1) a.(1).
51 DOS, Information About Form DS-5540, Public Charge Questionnaire.