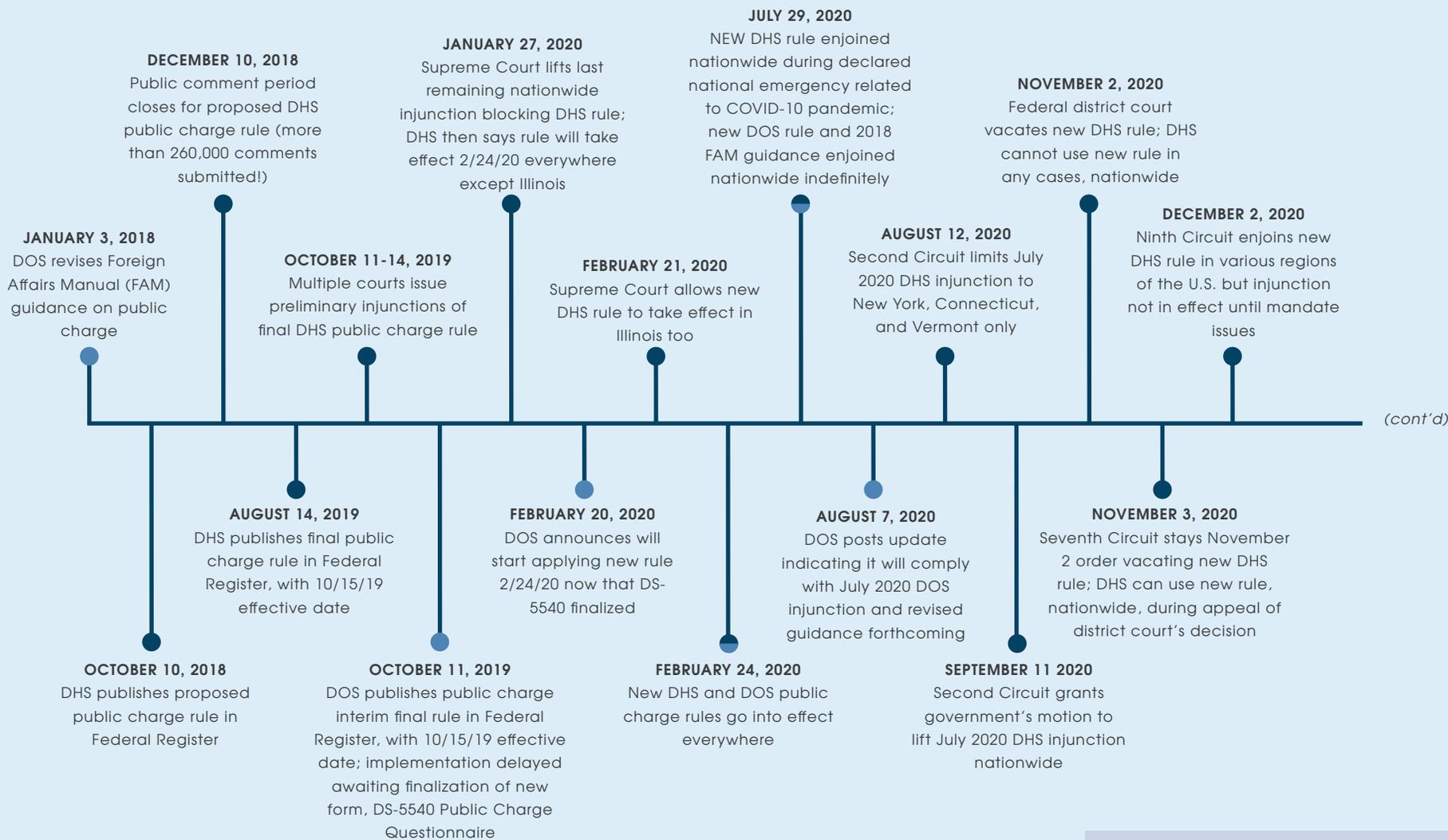




# PUBLIC CHARGE TIMELINE



**LEGEND**

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



# PUBLIC CHARGE TIMELINE

## FEBRUARY 2, 2021

President Biden signs executive order directing agencies to review public charge within next 60 days and provide recommendations; rescinds Trump memorandum on enforcing legal responsibilities of affidavit of support sponsors if the sponsored immigrant uses means-tested public benefits

## MARCH 9, 2021

DOJ drops defense of Trump-era DHS rule, leading to dismissal of pending cases challenging new DHS rule and allowing lower court decisions enjoining and/or invalidating the new DHS rule to stand. The Nov. 2, 2020 district court decision vacating the new DHS rule in its entirety becomes final; USCIS immediately stops applying new DHS rule

## MARCH 25, 2021

DOS posts updated FAM guidance to reflect policies in effect before Jan. 2018 (July 2020 injunction continues in effect)

## FEBRUARY 22, 2021

SCOTUS decides to review one of the DHS public charge cases, out of New York

## APRIL 26, 2021

SCOTUS denies without prejudice states' attempt to intervene in N.D. IL case that vacated DHS rule

## JANUARY 20, 2021

Ninth Circuit grants government motion to stay issuance of mandate, pending related cases seeking review before Supreme Court

## MARCH 15, 2021

Trump-era DHS rule officially removed from Federal Register

### LEGEND

- DHS/USCIS
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## SO WHERE ARE WE NOW?

**The Trump-era public charge rules are not currently in effect anywhere. Decisions about public charge are currently based on prior guidance which considers whether someone is likely to become primarily dependent on the government for cash aid or long-term care.**

On February 2, 2021, President Biden issued an executive order directing agencies to review public charge policies and make recommendations. One result of that review was the government's decision to stop defending the Trump-era DHS rule in lawsuits challenging the rule. This led to dismissals of pending cases challenging the rule, including appeals before the Supreme Court and the Seventh Circuit, which had issued a stay of the November 2, 2020 district court decision vacating the new public charge rule. Accordingly, on March 9, 2021, the Seventh Circuit lifted its stay, and the lower court's November 2020 decision vacating the DHS rule in its entirety was allowed to go into effect immediately, nationwide. That same day, USCIS stopped applying the Trump-era DHS rule to all cases and returned to following prior policy, the 1999 field guidance. Soon thereafter, USCIS deleted its Policy Manual sections on the Trump-era public charge inadmissibility rule, removed Form I-944 from its website, and removed the rule from the Federal Register. Various states in favor of the Trump-era rules have sought to file intervenor actions in the federal courts to revive the Trump-era DHS rule, but so far none of these efforts has been successful.

The DOS new public charge rule remains enjoined, based on the July 29, 2020 order. This order also blocks use of the 2018 [Foreign Affairs Manual \(FAM\)](#) guidance related to public charge. On March 25, 2021, DOS released updated guidance that tracks policies in place before the new rule. Visa applicants are not required to complete the DS-5540 Public Charge Questionnaire or present it during visa interviews.

A review of public charge policies is still underway by the agencies pursuant to the February 2, 2021 executive order. New rulemaking on public charge is expected in the coming year. Note that litigation regarding the DHS and DOS public charge rules, 2018 FAM revisions, and related issues is ongoing; the state of the law and implementation of these rules could very well change again.

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