

UNDERSTANDING PUBLIC CHARGE

Public Charge is a long-standing concept, but it's confusing and raises a lot of fear for people - including many who will never be subject to it.

This explainer provides information about Public Charge and the changes proposed by the Trump Administration on November 19, 2025.



WHAT IS PUBLIC CHARGE?

Public Charge, or the “Public Charge test,” is an assessment made by federal immigration officers when deciding whether to approve certain immigration-related applications. As one part of the decision, the immigration officer will review an applicant’s age, health, income, and other factors to decide whether the applicant seems likely to become primarily dependent on the government for support in the future - i.e., a “public charge.”

If the officer decides that the applicant will need to rely on government support in the future, the application can be denied on the grounds of public charge.

WHEN DOES A PUBLIC CHARGE TEST HAPPEN?

The Public Charge test is a part of some immigration reviews. Specifically, a Public Charge test is part of reviews that immigration officials undertake when someone is seeking to:

(1) Adjust Their Immigration Status

- Most commonly, the Public Charge test comes into play when someone is applying to receive Lawful Permanent Resident status (i.e., a Green Card) through a family member who already is a U.S. Citizen or a Green Card holder.
- There are other, less common approaches to adjustment of status that trigger a Public Charge test, also. These include some employment-based applications, some special immigrant adjustment of status applications, and a few other circumstances.

(2) Receive a Visa to Enter the Country

- As a nonimmigrant, meaning, the non-citizen person wants a visa to enter the country temporarily, like for a business trip or tourism.
- As an immigrant, meaning, the non-citizen person is petitioning to enter and remain in the United States.
- Certain Lawful Permanent Residents who have left the United States are subject to a Public Charge test when they return.

NOTE: U.S. CITIZENS ARE NEVER SUBJECT TO THE PUBLIC CHARGE TEST.

WHICH IMMIGRANTS ARE NOT SUBJECT TO A PUBLIC CHARGE TEST?

Public Charge does not apply to all immigrants. Many people are fearful of being named a Public Charge, but their circumstances would never trigger such an assessment. This includes:

- Lawful Permanent Residents who are applying for U.S. Citizenship
- Lawful Permanent Residents applying to renew their Green Card
- Individuals applying for asylee or refugee status, or who are applying for a Green Card based on that status
- Applications for Special Immigrant Juvenile Status (SIJS) or citizenship based on having SIJS
- Applications for a U or T Visa, or for citizenship based on having that visa
- Applications for a Green Card or citizenship based on VAWA
- Applications for Temporary Protected Status (TPS) or DACA

PUBLIC CHARGE: CURRENT STATUS & PROPOSED CHANGES

CURRENT STATUS

- Immigration officials base their Public Charge reviews on several factors, and all of an immigrant's circumstances. This includes:



CONSIDERATION OF BENEFITS

- Use of public benefits at the time of the application is one part of this larger test. Only two types of public benefits are currently considered:

- Cash Assistance for Income Maintenance
- Long-Term Institutionalization

- The Public Charge test is not just about use of benefits. Immigration officials must look at the individual's situation as a whole. This includes whether a family member or another person with enough income or resources has promised to support the applicant.
- This "affidavit of support" and other positive factors can help result in an approval even if someone is receiving a covered public benefit when they apply.
- Current definition explicitly excludes applying for or receiving a benefit on behalf of family members.

CURRENTLY APPLICABLE POLICY

At this time, immigration officials use two main pieces of guidance and policy in making decisions:

- Field guidance that was issued in 1999.
- Formal public charge rule that was issued by the Biden Administration in 2022.

PROPOSED RULE

- On November 19, 2025, the U.S. Dept of Homeland Security (DHS) posted a new Proposed Rule on Public Charge, with comments due December 19.
- The proposal:
 - Rescinds the current 2022 rule, other than a small piece regarding bonds.
 - Does not replace the 2022 rule with any new language or proposed new policy.
 - Does not formally rescind the 1999 field guidance that immigration officials currently use in their reviews.
- The preamble states that DHS intends to provide future "policy and interpretive tools" to guide immigration officials.
- The preamble and the proposed rule make it clear that the intent is to provide broad discretion to immigration officials when they review applications.

KEY QUESTIONS

Which "public benefits" will be considered?

- The Proposed Rule deletes the language limiting consideration of public benefits to only cash assistance or long-term institutionalization.

Will family members' use of benefits remain exempt?

- The Proposed Rule deletes the language that excludes applying for or receiving benefits on behalf of family from the definition of "receipt."

Will past use of benefits be considered?

- The Proposed Rule states that forthcoming policy guidance will consider current or past use of any means-tested public benefit. (The rule does not, itself, actually make this change.)

Will there be any consistency or guardrails?

- What is the timeline for new guidance, and how will the 1999 field guide be applied in the meantime?
- If there are no definitions and everything could be in play, how can immigrants prepare or plan ahead?

LIKELY IMPACTS OF PROPOSED RULE ON IMMIGRANTS & SUPPORTERS

- The Proposed Rule will likely cause confusion and uncertainty and have a chilling effect on immigrants' use of all public benefits, even for immigrants who are not, and will never be, affected by the Public Charge test.
- The Proposed Rule will likely result in increased demand for services from alternative sources, such as Food Banks, non-profit and charitable organizations, religious organizations, schools, and other community groups.