



# Protecting Immigrant Families Advancing Our Future Campaign Public Charge Finalization Webinar

August 14, 12:00 pm ET / 9:00 am PT

Presented by:

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# PIF Priorities for 2019

## Priority # 1

Combat and document the chilling effect of Trump's anti-immigrant agenda, and empower immigrants and their families to make informed and accurate decisions

## Priority # 2

Block, delay (and mitigate) the impact of proposed public charge changes and other related harmful policies from taking effect

## Priority # 3

Build power and support for an affirmative vision forward

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# Questions we'll address

- **What does the DHS final public charge rule look like?**
  - What is public charge and who does it apply to?
- **How do we talk about public charge and what is this really about?**
- **What do we tell immigrants and their families?**
- **What can organizations and our communities do to fight back against public charge?**
- **Where can I learn more about public charge?**
- **Q&A**

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# Other Aspects of Public Charge

- **Department of State - Foreign Affairs Manual**
- **Department of Justice - Potential Notice of Proposed Rulemaking**

We will not be covering these policies in-depth on today's webinar. We encourage you to learn more about both of these policies on the [Analysis & Research](#) page of our website.

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# Trump's Invisible Wall

**PUBLIC CHARGE:**  
Visas and green card processing *outside* the U.S.

(DOS - Foreign Affairs Manual)

**PUBLIC CHARGE:**  
Visa extensions & Status changes

(DHS Rule)

**PUBLIC CHARGE:** Green card processing *inside* the U.S.

(DHS Rule)

**SPONSOR DEEMING & LIABILITY:**  
Potential application to more programs

(White House memo)

**PUBLIC CHARGE:**  
Grounds for deportation

(Anticipated DOJ NPRM)

**PUBLIC CHARGE:**  
Low-income immigrants lose access to green cards & cut off from citizenship / voting rights.

**CITIZENSHIP QUESTION IN CENSUS 2020:** Chills civic participation and will limit funding for basic needs programs that depend on accurate count

(SCOTUS decision)



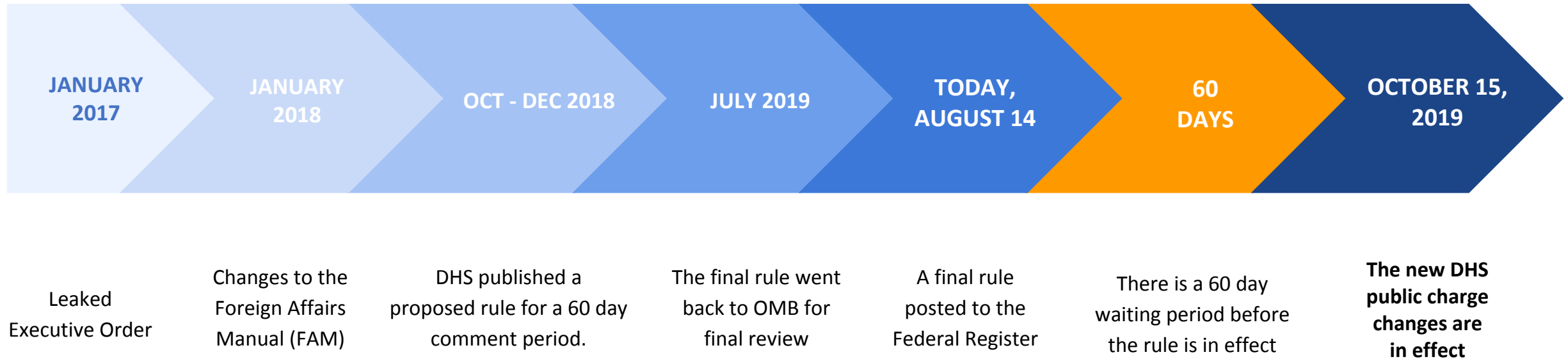
**FEE WAIVER:**  
Removing receipt of means-tested benefits from eligibility list

(DHS Rule)

**FEE WAIVER:**  
Low-income immigrants lose access to citizenship/ voting rights.

(DHS Rule)

# Public Charge: Timeline



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# What does the final DHS public charge regulation look like?

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# Longstanding Public Charge Test

## Prior Definition

A person who is considered “likely to become primarily dependent on the government for subsistence.”

## Prior Benefits Considered

Only two types of benefits considered:

1. **Cash assistance** for income maintenance
2. Institutionalization for **long-term care** at government expense

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# Longstanding public charge test

## Totality of Circumstances

- Age
- Health
- Family status
- Financial status
- Education and skills
- Affidavit of support

The public charge assessment is **forward-looking**



**Is the person likely to rely on cash or long-term care in the future?**

- No one factor (including past use of cash benefits) can alone determine whether or not someone is a “public charge”
- Positive factors can be weighed against negative factors

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# Where does public charge come up?

A public charge assessment is made when a person:

- Applies to enter the U.S.
- Applies to adjust status to become a Lawful Permanent Resident (LPR) - obtaining a green card
- A green card holder leaves the U.S. for more than 180 consecutive days (6 months) and reenters

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# Does this test apply to everyone?

The public charge ground of inadmissibility does NOT apply to everyone. Here are some examples of public charge does NOT apply to:

- Lawful Permanent Residents (“green card holders”) applying for citizenship
- Refugees and Asylees
- VAWA Self-petitioners
- Survivors of Domestic Violence, Trafficking, or Other Serious Crimes (U or T visa applicants/holders)
- Special Immigrant Juveniles
- Certain Parolees, and several other categories of non-citizens

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# Final Public Charge Rule: Overview

## NEW DEFINITION

A dramatically different definition of public charge

## TOTALITY OF CIRCUMSTANCES

New weighted factors of the totality of circumstances (TOC) test designed to make it harder for low and moderate income people to pass

## ADDITIONAL BENEFITS

Additional public benefits programs can be considered by immigration officials.

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# Final Public Charge Rule: Definition

## PREVIOUS DEFINITION

An immigrant “likely to become primarily dependent on the government for subsistence”

## FINAL DEFINITION

A person who “receives one or more public benefit... for more than 12 months in the aggregate within any 36-month period (such that, for instance, receipt of two benefits in one month counts as two months).”

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# Final Public Charge Rule: TOC Test

- **Income and Financial Status**
  - Under 125% FPL (negative); Over 250% FPL (heavy positive)
- **Age**
  - Under 18 or over 61 (negative)
- **Education and Skills**
- **Health**
  - Medical condition likely to require extensive treatment, institutionalization or interfere with ability to care for self, attend school or work
- **Family Status**
- **Affidavit of Support**

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# Final Public Charge Rule: Benefits

## Long-standing Policy

\*Cash Assistance for Income Maintenance

Long Term Institutional Care at Government Expense

## Newly Finalized Rule

Supplemental Nutrition Assistance Program (SNAP or Food Stamps)

Federal, State, Local and Tribal Cash Assistance

\*\* Medicaid (with exceptions)

Housing Assistance (Public Housing or Section 8 Housing Vouchers and Rental Assistance)

\* Included under current policy as well

\*\* Exceptions for emergency medical conditions, & coverage of children < 21 and pregnant women.

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# Things to Keep in Mind

- **The rule is not in effect yet.**
  - Applies only to applications submitted on or after October 15, 2019.
  - Newly named benefits used prior to that date will not be considered.
- **Not everyone is subject to the rule.**
  - Many immigrants are exempt from the public charge inadmissibility ground.
  - Benefits used by family members will not be counted.
- **Positive factors can be weighed against negative factors** in this forward-looking test.
- **Every situation is different.**
  - You can consult with an immigration attorney if you have questions about your own case.

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# How do we talk about public charge, and what is this really about?

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# Messages - Press and Policymakers

## **Another brick in Trump's invisible wall**

- Choose your examples (State Department, HUD, Census, "go back," etc.)

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**About sending 1 message: if you're not white and you're not wealthy, you're not welcome here**

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About sending 1 message: if you're not white and you're not wealthy, you're not welcome here

**Dangerous threat to our country's future**

- Reckless
- Abusive

# Messages - Press and Policymakers

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- Choose your examples (State Department, HUD, Census, "go back," etc.)

About sending 1 message: if you're not white and you're not wealthy, you're not welcome here

Dangerous threat to our country's future

- Reckless
- Abusive

**We're fighting back**

- Litigation
- Congress

# DHS Final Regulation Toolkit

## TOOLKIT

- Pitch note
- Editorial board memo
- Statement + release
- Op-Ed
- Letter to the editor
- Digital (social + email)

# What do we tell immigrants and their families?

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# Community-Facing Talking Points

- **Fight fear with facts - KNOW YOUR RIGHTS.**
  - The public charge rule was designed to be confusing, complicated, and scary on purpose. You have rights in this country no matter where you were born.
- **It's not over - we still have a chance to stop the rule.**
  - Advocates are using every tool at their disposal to stop this rule from taking effect - including in the courtroom.
- **This public charge test does not apply to every immigrant.**
  - Exempt immigrants include: refugees; asylees; survivors of trafficking, domestic violence, or other serious crimes (T or U visa applicants/holders); VAWA self-petitioners; special immigrant juveniles; and certain people paroled into the U.S. Benefits received when people are in one of these statuses will not be counted against them. And lawful permanent residents (green card-holders) are not subject to a public charge test when they apply for U.S. citizenship.

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# Community-Facing Talking Points

- **Use of public benefits alone will not make you a public charge.**
- **The public charge test does not consider benefits used by family members.**
  - Benefits used by eligible family members are not counted unless the family members are also applying for a green card.
- **The rule does not consider benefits used before October 15, 2019.**
- **Your personal information is protected.**

*Ultimately, health care, nutrition, and housing programs can help you and your children remain strong, productive, and stable. The best thing a family can do to fight Trump is keep meeting their children's needs -- keep taking them to the doctor, keep feeding them, keep a roof over their heads.*

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# Conversations with Immigrants

## Do you or your family members already have green cards?

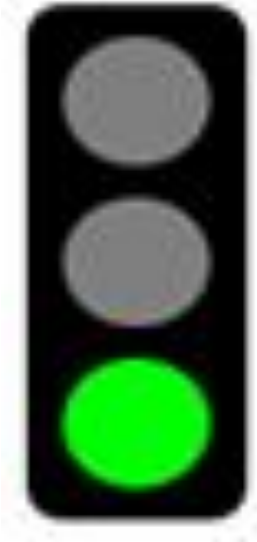
The DHS public charge test does not apply to you. However, if you plan to leave the country for more than 6 months, it is a good idea to talk with an immigration attorney.

\*The public charge test is not part of a US Citizenship application.

## Do you have or have applied for one of the following statuses?

- U.S. Citizenship
- U or T Visa
- Green card renewal
- Asylum or Refugee status
- DACA renewal
- Special Immigrant Juvenile Status
- TPS

The public charge test does not apply to the categories listed here. If you already have or are in the process of applying for one of these immigration statuses, you can continue to use any government programs that you qualify for.



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# Conversations with Immigrants

## Does your family plan to apply for a green card or visa from inside the United States?

If you aren't sure whether or not this policy applies to you, we recommend that you seek advice from an attorney who understands the new changes. **If you are not subject to the public charge test, we recommend that you continue to get the assistance that you and your family needs.**

## Does your family plan to apply for a green card or visa from outside the United States?

U.S. consular offices abroad use different rules in making this decision You should talk with an expert for advice on your case before making any decisions.

For free or low-cost options near you, go to: [www.immigrationadvocates.org/nonprofit/legaldirectory](http://www.immigrationadvocates.org/nonprofit/legaldirectory)



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# Questions from Immigrants

**I was just granted asylum status a few months ago, now I'm worried that using SNAP is going to stop me from getting my green card.**

**I'm pregnant and need help. I'm currently enrolled in Medicaid but I'm afraid it will be used against me.**

**My friend says public charge will apply to her. She disenrolled from SNAP. She said I should too.**



**I'm scared to sign up for WIC, I know that WIC is a public benefit.**

**Coverage under my Medicaid plan is the only option for health insurance for my children who 12 and 19 years old.**

**My brother is applying for citizenship but uses Section 8 housing vouchers. Is he a public charge?**

# How to respond to questions



I was just granted asylum status a few months ago, now I'm worried that using SNAP is going to stop me from getting my green card.

I'm pregnant and need help. I'm currently enrolled in Medicaid but I'm afraid it will be used against me.

My friend says public charge will apply to her and so she disenrolled from SNAP. She said I should too.

The public charge test does not apply to asylees. We encourage you to stay enrolled in SNAP - it will not impact your green card application.

The public charge test will not consider non-emergency Medicaid used by pregnant women up until 60 days after they give birth. We encourage you to get the health care that you and your baby need.

Everyone's situation is different. What may be good advice for one person could be bad advice for another. We encourage you to learn more about your situation and speak to an immigration attorney.

# How to respond to questions



I'm scared to sign up for WIC, I know that WIC is a public benefit.

You're right - WIC is a public benefit. BUT it is not included in the public charge test. We encourage you to sign up for programs you are eligible for.

Coverage under my Medicaid plan is the only option for health insurance for my children who 12 and 19 years old.

The public charge test has a specific exception for children under the age of 21 that use Medicaid. Your kids fall under that exception - their use of Medicaid will not be considered in their public charge test.

My brother is applying for citizenship but uses Section 8 housing vouchers. Is he a public charge?

The public charge test does not come up when people apply for U.S. citizenship. Section 8 housing vouchers are considered for public charge, yes. But since your brother is applying for citizenship - public charge does not apply.

# Fight Fear with Facts: Know Your Rights

## EMPOWERMENT THROUGH COMMUNITY EDUCATION

*The more we know about our rights - the harder it is for Trump to intimidate us*

### Educate communities on the following:

- **Accessing services and assistance**
  - Feel safe going to the doctor's office and sensitive locations
- **Enrolling in benefits programs**
  - Figure out what you are eligible for
  - Privacy protections of personal information
  - Children's eligibility for programs
  - State-funded programs

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# Tools and Resources for Communities

- [Let's Talk About Public Charge](#)
- [Getting the Care You Need](#) (translations coming soon)
- [You Have Rights: Protect Your Health](#) ([Spanish](#)) ([French](#)) ([Chinese](#)) ([Arabic](#))
- **TEMPLATES AVAILABLE FOR ORGANIZATIONS**
  - Customize for YOUR community. Add YOUR branding.
  - Add contact information and more details on other programs your state/city offers immigrant families.
  - Email Kat Lundie ([lundie@nilc.org](mailto:lundie@nilc.org)) to request a template. Please be patient as we fulfill your request.

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# What can organizations and our communities do to fight back against public charge?

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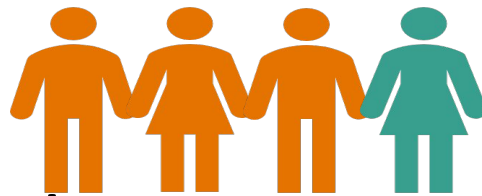
# Trump's Invisible Wall: Direct and Indirect Effects

- **Directly affected individuals**
  - The proposed threats could prevent immigrants from using the programs their tax dollars help support, preventing access to healthy, nutritious food and secure housing.
- **Broader population of people subject to “chilling effect”**
  - Family members living with or sponsoring immigrants, particularly U.S. citizen children
  - Non-family sponsors, co-sponsors, and joint sponsors (community members, religious congregants, family friends, etc.)
- **States and localities**
- **Providers and communities**
- **All of us**

# The Chilling Effect: The Big Picture

As many as **26 million** people in families with immigrants might be chilled from participating in programs that make their families healthier and stronger.<sup>1</sup>

There is already a chilling effect. The Urban Institute reported that 1 out of 5 low-income immigrant families were afraid to access public benefits.<sup>2</sup>



**1 in 4 children have an immigrant parent.**<sup>3</sup>

<sup>1</sup>“Public Charge Proposed Rule: Implications for Non-Citizens and Citizen Family Members Data Dashboard,” Manatt Health, October 2018

<sup>2</sup> <https://www.urban.org/research/publication/one-seven-adults-immigrant-families-reported-avoiding-public-benefit-programs-2018>

<sup>3</sup> Samantha Artiga and Anthony Damico “Nearly 20 Million Children Live in Immigrant Families that Could Be Affected by Evolving Immigration Policies” Kaiser Family Foundation, 2018

# Document the Harm

## Be aware how our communications could add to this chilling effect.

- Meanwhile, please help us continue to document this harm/chilling effect
- **Documentation needs:**
  - Disenrollment from Medicaid, SNAP, WIC, or other public benefits
    - Even if not included in final rule
  - Cases where immigrants/immigrant families share fears about public charge (to teachers, doctors, attorneys, pastors, etc.)
  - *For state/local governments*, ask eligibility workers to report examples of chilling effects, and monitor own administrative data for trends in decreased enrollment/utilization

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# Federal Advocacy

- **Ask Members of Congress to cosponsor HR 3222 - “No Federal Funds for Public Charge”**
- **Ask Members to speak out in opposition on public charge**
  - Help them connect the dots regarding other threats - e.g., invisible wall - in addition to understanding the DHS final rule
- **Ask Members to educate their staff on public charge and activate/organize their own networks to provide services to their constituents**
  - In district offices, especially - constituent services staff
- **Oversight opportunities**

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# State/Local Policies and Action

- **Toolkit with resources for public officials**
  - Community education resources
  - Guides and models of programs to mitigate harm
  - Messaging for public officials
  - Data and analysis
  - [Suggestions of key actions to mitigate the harm of public charge](#)

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# State/Local Policies and Action

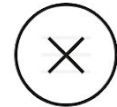
- **Action #1:** Ensure that families have access to timely and accurate information about the public charge rules, through front-line staff trainings, community outreach, and inter-agency coordination.
- **Action #2:** Ensure that benefits programs protect immigrant privacy and that people are aware of privacy protections.
- **Action #3:** Ensure that people impacted or potentially impacted by new public charge rules have access to accurate legal guidance.
- **Action # 4:** Monitor state/ local data for significant drops in enrollment for entitlement and safety-net programs to identify growing unmet needs in the community in real time.

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# How can I get more involved in the fight to protect immigrant families?

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## Stop Trump's Attack on Immigrant Families

**UPDATE (08/12/19):** The Department of Homeland Security finalized its “public charge” regulation — a racially-motivated “wealth test” that rigs the rules against immigrants and their families who are on the pathway to a green card. If the Trump Administration gets its way, countless families will be devastated.

# Share with Us

## For Organizations:

- Think the administration did a poor job responding to your comments? Be our eyes and ears in analyzing the final rule!
  - [DHS Responses to Arguments](#)
- If you have additional questions on the DHS final rule, submit them here:
  - [Organizational Questions](#)

## For Individuals:

- If you have additional questions on the DHS final rule, submit them here:
  - [Individual Questions](#)

**NOTE: We cannot answer questions about specific legal cases, but will try to direct you to available resources and partners in your area.**

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# Questions & Answers

**Please type your questions and comments into the chat box**

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