USCIS Issues Guidance on Making Public Charge Inadmissibility Determination

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U.S. Citizenship and Immigration Services (USCIS) is issuing updated guidance in the USCIS Policy Manual explaining how the agency will determine whether an alien applying for adjustment of status to that of a lawful permanent resident is likely at any time to become a public charge.

On July 16, 2026, DHS announced a final rule that rescinds the 2022 Biden-era public charge inadmissibility regulations. The final rule was formally published in the Federal Register on July 20, 2026, and goes into effect on Sept. 18, 2026. The updated guidance aligns with congressional intent that aliens in the United States be self-sufficient and not dependent on taxpayer-funded government benefits.

This updated guidance explains which categories of aliens are subject to the public charge inadmissibility ground and which categories Congress has made exempt. The guidance describes key concepts, the factors that are considered in public charge inadmissibility determinations, and what evidence will be considered. It also explains the public charge bonds process.

Aliens Subject to the Public Charge Ground of Inadmissibility

All aliens applying for adjustment of status to that of a lawful permanent resident are subject to the public charge ground of inadmissibility unless they are applying in an immigration category that is exempt. Below is a complete list of categories who are subject to and the categories that are exempt from the public charge ground of inadmissibility:

Categories that are subject to public charge	Categories that are not subject to public charge
• Spouses, children, and parents of U.S. citizens • Unmarried sons and daughters of U.S. citizens and their children • Spouses, children, and unmarried sons and daughters of LPRs • Married sons and daughters of U.S. citizens and their spouses and children • Brothers and sisters of U.S. citizens • Fiancé(e)s of U.S. citizens • Amerasians based on preference category, born on or after Dec. 31, 1950, and before Oct. 22, 1982 • Widows or widowers of U.S. citizens • Priority workers • Professionals with advanced degrees or aliens of exceptional ability • Skilled workers, professionals, and other workers • Investors • Religious workers • Certain employees or former employees of the U.S. government abroad • Panama Canal Zone employees • Foreign medical school graduates • Retired employees of international organizations • U.S. armed forces personnel • International broadcasters • Diplomats or high-ranking officials unable to return home	• Asylees and refugees • Amerasian immigrants at admission • Afghan and Iraqi interpreters or Afghan and Iraqi nationals employed by or on behalf of the U.S. government • Cuban and Haitian entrants at adjustment of status under section 202 of the Immigration Reform and Control Act of 1986 • Applicants seeking adjustment under the Cuban Adjustment Act • Nicaraguans and other Central Americans who are adjusting status to lawful permanent resident • Haitians who are adjusting status to lawful permanent resident under the Haitian Refugee Immigration Fairness Act of 1998 • Lautenberg parolees • Special immigrant juveniles • Applicants for registry • Applicants seeking Temporary Protected Status • Certain nonimmigrant ambassadors, ministers, diplomats, and other foreign government officials, and their families • Victims of human trafficking (T nonimmigrants) • Victims of qualifying criminal activity (U nonimmigrants) • Self-petitioners under the Violence Against Women Act • Certain battered aliens who are "qualified aliens" under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. • Applicants adjusting status who qualify for a benefit as surviving spouses, children, or parents of military members • American Indians born in Canada who are not U.S. citizens

Categories that are subject to public charge	Categories that are not subject to public charge
(Section 13 of the Act of September 11, 1957) • Diversity visa immigrants • Certain entrants before Jan. 1, 1982 • Alien witnesses or informants	• Certain members of the Texas Band of Kickapoo Indians of the Kickapoo Tribe of Oklahoma • Nationals of Vietnam, Cambodia, and Laos applying under the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 2001 • Polish and Hungarian parolees • Certain Syrian nationals • Applicants adjusting under the Liberian Refugee Immigration Fairness law

Making Public Charge Inadmissibility Determinations

While the Immigration and Nationality Act (INA) does not define public charge or likely at any time to become a public charge, Congress has specified that USCIS officers must consider five statutory factors when making public charge inadmissibility determinations. These five factors are an alien's age; health; family status; assets, resources, and financial status; and education and skills. The INA also provides that USCIS officers may consider Form I-864, Affidavit of Support Under Section 213A of the INA, which is executed by an individual who agrees to use his or her financial resources to support the alien.

To make public charge inadmissibility determinations, USCIS officers will consider the five statutory factors and any other factor relevant to assessing the alien's likelihood at any time of becoming a public charge, including the alien's receipt of means-tested public benefits, such as cash assistance for income maintenance, housing assistance, food stamps, financial aid for college, or any other similar benefit. For means-tested public benefits received before Sept. 18, 2026, USCIS will only consider the alien's receipt of public cash assistance for income maintenance and long-term institutionalization at the government's expense. For means-tested public benefits received on or after Sept. 18, 2026, USCIS consider any and all benefits. USCIS will review all relevant evidence in an alien's record and make case-by-case decisions in the totality of the alien's circumstance.

Public Charge Bonds

If a USCIS officer finds that an alien applying for adjustment of status to that of a lawful permanent resident in the United States is inadmissible only because they are likely at any time to become a public charge, the USCIS officer may invite the alien to post a public charge bond. A public charge bond is a financial guarantee where individuals or companies pay a cash bond or post a surety bond with USCIS as an assurance that the alien will not become a public charge. If the alien posts a bond in compliance with the form instructions and the notice issued by the USCIS officer, the USCIS officer may approve the alien's application for adjustment of status, which makes the alien a lawful permanent resident and allows him or her to remain in the United States.

To determine the public charge bond amount, the USCIS officer will consider how much government assistance the alien may be eligible for and potentially receive over the next five years.

If USCIS invites an alien to post a public charge bond, the alien may submit a cash bond or a surety bond (posted through a surety company certified by the U.S. Treasury) by submitting a Form I-945, Public Charge Bond.

Aliens may only submit Form I-945 if USCIS invites them to do so in a Notice of Intent to Deny. USCIS will not accept public charge bonds from aliens who did not receive an invitation from USCIS.

This guidance is controlling and supersedes any related prior guidance, including the 1999 Interim Field Guidance and any related guidance addressing public charge inadmissibility. This guidance is intended to guide but not prescribe how USCIS officers exercise their discretion in making case-by-case public charge inadmissibility determinations. This guidance is effective on Sept. 18, 2026, and applies to all Forms I-485, Application to Register Permanent Residence or Adjust Status, subject to the public charge ground of inadmissibility postmarked or electronically submitted on or after that date.

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