

Top 5 Things to Know About Public Charge

On October 10, 2018, the Trump administration published a *proposed* new rule that would change who is considered a “public charge.” *Public charge* is a term used in immigration law to refer to a person who is primarily dependent on the government to meet their basic needs. The new proposed rule would broaden the definition of who is to be considered a “public charge” so that it includes immigrants authorized to be in the United States who use one or more government programs listed in the proposed rule.

When a non-U.S. citizen applies for a *visa* to enter the U.S. or for *lawful permanent resident status* (to get a “*green card*”), a U.S. government official will look at the person’s life circumstances to see if the person is likely to depend on government programs in the future. This consular or immigration officer considers the person’s age, health, family and financial status, education, and skills. If the officer determines that the person is likely to become a public charge, the officer can refuse to grant the person’s application to enter the U.S. or get a green card.

Here are the top 5 things you should know about this proposed new rule:

1. It is still only a proposal.

Right now, the published rule is just a *proposal* to change the public charge policy that is currently in place. Before it can finalize the proposed rule, the government must let the public submit comments about it and must read all the comments. This process, along with the possibility that Congress will review the proposal, may delay finalization of the rule.

2. The proposed rule lists certain government programs that, only if you use them *after the rule becomes final*, could be counted against you in the public charge determination.

If you or members of your family are using government programs to get medical care or pay for food or rent, you do *not* need to stop using those programs at this time. These programs help your family stay healthy and able to work and go to school or do whatever else you need to do *now*. The proposed new rule lists certain programs that, only if a person uses them *after* the rule goes into effect, will be considered when determining whether the person is likely to become a public charge. So instead of putting your family’s health and wellbeing at risk now, *fight this proposal!*

3. The changes proposed in this rule do *not* apply to all immigrants.

Some immigrants are not subject to the public charge test. Certain “humanitarian” immigrants are either exempt from having to show that they are not likely to become a public charge or can qualify for a public charge “waiver.” These immigrants include refugees, people who are applying for or have been granted asylum (asylees), people applying for a green card under the Violence Against Women Act (VAWA), people who have or are applying for U or T visas, children seeking Special Immigrant Juvenile status, and people in some other protected categories. And the public charge test also does not apply to people with green cards when they apply to become U.S. citizens.

4. Your personal information’s *privacy* is protected by law.

Federal law and laws in most states protect the privacy of people who apply for or use government programs that provide health care, nutrition, economic support, or other kinds of help. The proposed new rule about public charge does *not* change that. In addition, information that schools, health care centers, and hospitals keep about you and your family is protected from access by U.S. Immigration and Customs Enforcement (ICE) under these laws.

5. You are *not* alone, and there’s still time to *fight back*.

Join us in submitting comments opposing the proposed changes to public charge policy. Organize your networks, your neighbors, and your family, asking them to do the same. Share your own story. Visit <https://ProtectingImmigrantFamilies.org> to find out how you can fight this proposal and receive updates about this issue.

DISCLAIMER

This document contains general information based on what the Protecting Immigrant Families Campaign knows to date and is *not legal advice*. Please take the time to consult with an immigration attorney or Board of Immigration Appeals–accredited representative about your own situation to help you decide what’s best for you and your family. For free or low-cost options near you, visit the National Immigration Legal Services Directory at www.immigrationadvocates.org/nonprofit/legaldirectory/.