



What is the Public Charge Rule?

- Public charge is the federal rule by which individuals can be *denied* permanent resident status (green cards) if they are determined to be likely to be dependent on the government for support in the future.
 - A new version of the public charge rule took effect on **February 24, 2020**, except in Illinois, where it has been delayed due to litigation.
 - National Skills Coalition and many other organizations **strongly opposed** the recent changes to the public charge rule, which evidence suggests will decrease immigrant adult learners and workers' ability to access key benefits to help them persist and succeed in education and training opportunities.
 - Now that the rule has taken effect, this document is intended to help higher education advocates understand the most common public-charge issues they may encounter.
 - Some people are *exempt* from the public charge test. These include refugees, T and U visa holders, Violence Against Women Act self-petitioners, people granted asylum, and certain other humanitarian immigrants.
 - The public charge is a *totality of circumstances* test. Officials weigh each of the positive and negative factors in an immigrant's application and determine whether they are at risk of becoming a public charge.
 - The new rule adds standards and evidentiary requirements to the factors considered under the totality of circumstances test. Factors include age, health, income and assets, and education and skills, among others. For example, being over age 62 is a negative factor.
 - The new rule also expands the number of *people* who are subject to the test by adding new standards to applications for an extension or change of non-immigrant visas.
 - The new rule *greatly expands* the types of public benefits that count against immigrants under the test. Benefits that count against immigrants are:
 - > Any Federal, State, Local or Tribal cash assistance for income maintenance, including TANF, SSI, and general assistance programs
 - > Medicaid (with exceptions including coverage for emergency services, children under 21 years old, pregnant women and 60 days of post-partum services);
 - > Supplemental Nutrition Assistance Program (SNAP, formerly called "food stamps");
 - > Federal Public Housing, Section 8 housing vouchers and Section 8 project-based rental assistance.
- Note: Participating in an education or workforce program funded by SNAP Employment & Training does NOT count against an immigrant unless the immigrant has filed an individual application for SNAP benefits.*
- The public charge test does NOT apply when a green-card holder is applying for U.S. citizenship.

PLEASE NOTE: The public charge rule is complex, with many details and exceptions. National Skills Coalition is providing this document as short overview for adult educators, but it is not intended to be comprehensive.

Additional materials are available from ProtectingImmigrantFamilies.org, a project led by the National Immigration Law Center and the Center for Law and Social Policy.

What Should Higher Education Advocates Know About the Public Charge Rule?

- 1. Participating in postsecondary education is NOT counted against immigrants in the public charge test.** In fact, *no* type of education or workforce training participation counts against immigrants. Educators should feel confident in assuring students that participating in education classes, whether credit or noncredit, will not harm their ability to obtain a green card, or to extend or change their immigration status. In fact, additional education can *help* a person's chance of getting a green card by improving their totality of circumstances. Participating in classes will also not harm an immigrant who is planning to sponsor a family member to immigrate in the future.
- 2. Receiving federal student financial aid also does NOT count against immigrants.** Receiving aid such as Pell Grants is not counted as a public benefit in the public charge test. Students should be reassured that they should continue applying for and receiving any federal student financial aid for which they are eligible, without fear that this may jeopardize their immigration status.
- 3. New paperwork required by the public charge rule means that students are likely to contact colleges asking for proof of enrollment and related documents.** The new public charge rule requires individuals to complete a federal Declaration of Self Sufficiency **I-944** form when they are applying for a green card. This form requires applicants to submit diplomas, transcripts, graduation records, and other documents showing their educational history, including English language classes. If your institution does not issue such documents for some courses (such as noncredit courses), your students may instead ask for a letter affirming that no such documents are available. As of this writing, there is no official template available for what this letter should look like.
- 4. Even immigrants who already have green cards or US citizenship may have questions or concerns about this new policy.** In particular, green-card holders may be confused about whether the new rule could affect their application for U.S. citizenship (the answer is NO; Congress sets those rules). Green-card holders and US citizens may also ask whether the new rule will affect their ability to sponsor a family member to come to the United States (the answer is MAYBE; they should speak with a reputable lawyer or accredited representative per the link below). In addition, green-card holders should be aware that if they travel outside the U.S. for more than 180 days, they *will* face a public charge test when they attempt to return to this country.
- 5. Higher education administrators should consider providing professional development sessions to help ensure that staff are prepared to answer general questions about public charge.** Faculty, adjunct instructors, staff, student advisors, and other educational, health, and research personnel are likely to encounter many questions from immigrant students and their families. Institutions should ensure that personnel have accurate *general* information to help dispel rumors, reassure students, and clarify how their institutions can (and cannot) help immigrant students meet the new public charge requirements.
- 6. Individual educators should *not* attempt to provide legal advice to immigrants about how to complete Form I-944 or otherwise comply with public charge regulations.** Providing advice can put educators in danger of engaging in the "Unauthorized Practice of Law." Even more importantly, it can jeopardize an immigrant's ability to remain in the United States if advice is wrong or incomplete. Educators should refer students to reputable nonprofit legal service providers or attorneys. This may include an on-campus legal clinic, if one is available at their institution. Alternatively, educators can find an accredited nonprofit agency in their state by searching this site: <https://www.justice.gov/eoir/recognized-organizations-and-accredited-representatives-roster-state-and-city>.
- 7. Higher education administrators should be prepared for inquiries from their own immigrant faculty and staff.** Millions of immigrants hold jobs in higher education. As they prepare to apply for their own green cards, to extend or change a non-immigrant visa, or to sponsor a family member, they will have their own questions on public charge. Human resources staff and legal counsel at educational institutions should ensure that they are well-versed in public charge issues and are equipped to answer questions about how this new rule will affect their employees.
- 8. Educators can take action to advocate on this issue, such as by:**
 - > Disseminating accurate information about public charge to students, faculty and other personnel, and collaborative partners.
 - > Tracking any "chilling effect" observed by their institution, such as a drop in foreign-born students' enrollment for English classes or in other credit-bearing or noncredit courses.
 - > Noting the number and type of requests they receive for helping individuals to comply with the I-944 form (such as copies of enrollment paperwork), as well as the cost or burden to their institution in handling such requests.
 - > Assessing the degree to which immigrant students' withdrawal from public benefit programs such as Medicaid or SNAP may have ripple effects causing them to drop out of higher education programs.
 - > Sharing information about the *general* impact of the public charge rule on higher education institutions with nonprofit advocates seeking to document the consequences, while fully respecting laws and policies regarding privacy and confidentiality of *individual* students' data and personal information.

