

# A NEW PUBLIC CHARGE RULE: WHAT THE EARLY CHILDHOOD COMMUNITY NEEDS TO KNOW

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## Introduction

On July 16, 2026, the Department of Homeland Security (DHS) published a **new public charge rule** that could impact immigrant families' access to basic needs and education programs. The final rule, effective on September 18, 2026, makes changes to an immigration process used in some green card determinations known as public charge. It removes **parameters established in 2022** around the types of programs that DHS officers can or cannot consider when determining whether a noncitizen is likely to become a "public charge," creating confusion and uncertainty for green card applicants.

On August 18, DHS **published guidance** on how the final rule will be implemented. Here is what early childhood partners and the child advocacy community need to know:

### What is a "public charge"?

DHS uses the public charge determination as one component of the green card application review process for some immigrants to determine the likelihood of the applicant to primarily depend on the government for support in the future. If an immigration officer determines that an applicant is likely to become a "public charge," their application for admission to the United States or their application for lawful permanent resident status (green card) can be rejected.

## What does the new public charge rule do?

The new policy and guidance take away clear rules for deciding whether someone could become a “public charge” and leaves the question about which benefits count toward someone being considered a “public charge.”

- We expect immigration officers to increase their individual discretion when assessing whether someone is considered a “public charge.”
- For applications received before September 18, only the two historically utilized categories (cash assistance, like TANF, and long-term institutionalization) can be considered in the public charge determination.
- For applications received on or after September 18, means-tested public benefits received on or after that date can be used to determine whether someone is a “public charge.”
- The guidance does not establish a list of which programs could be considered. Public benefits can be used in a public charge determination when eligibility depends on income or assets. Decisions on which programs will be considered are left to the discretion of the immigration officer. Programs could include cash assistance, food assistance, government-funded health coverage, public or assisted housing, and certain financial aid.
- The guidance does make it clear that public benefits are those provided by an agency of the government and refers to all levels of government, from local to federal.

## Who does public charge apply to?

The “public charge inadmissibility test” only applies to people applying for a green card or a visa to enter the U.S., or to green card holders who leave the country for more than 180 days.

Public charge does not apply if you’re a U.S. citizen; you’re applying for or already have Temporary Protected Status, a “U” or “T” visa, asylum, refugee, or Special Immigrant Juvenile Status; you currently have no pathway to obtain a green card; or you do not plan to apply for a green card in the future. For more information on different immigration status categories and how public charge does or does not apply, see [this resource](#).

## Will a child’s use or receipt of benefits count against an immigrant parent?

The 2026 final rule and guidance defines what the word “receipt” means in the context of the application. Receipt only occurs when the immigrant applicant is listed as the beneficiary of the benefit. If, for example, an immigrant applicant applied for SNAP on behalf of their citizen child, the applicant would not be considered as the beneficiary. However, if the child or another person under the legal care of the applicant qualifies for the benefit because the applicant’s income falls below an eligibility threshold, guidance has stated that DHS may consider the applicant’s underlying financial

circumstances. Therefore, an immigrant applicant's low income can be a factor in the public charge assessment.

- It's important to note that "universal benefits," meaning benefits available to everyone regardless of income, and "earned benefits" like Social Security, Medicare, and unemployment benefits, are excluded from a public charge determination.
- Universal benefit programs could include food pantries, public libraries, and other programs that allow anyone to benefit and do not verify income to determine eligibility.

## What does the public charge rule mean for the early childhood community?

The final rule does not specify a list of benefits that will or will not be considered in a public charge determination, but says that means-tested benefits—that is, those where eligibility is based on income or resources—can be considered. Receipt of a means-tested benefit does not automatically mean that an applicant will be considered a public charge. Instead, officers make individualized determinations based on the totality of the applicant's circumstances.

The **preamble** to the final rule discusses various public benefits that officers may consider in a public charge determination. However, this is not legally binding. DHS states in the preamble that it "will consider the participation in means-tested child care, child development, and child education programs, including Head Start, and [Early Intervention] services, funded by the government" when received by immigrant children who are themselves subject to the public charge ground of inadmissibility.

DHS also addresses situations in which an immigrant parent is subject to a public charge determination and their child participates in a means-tested, government-funded program. DHS states in the preamble that it "will also consider the children's receipt of such benefits as part of the parents' assets, resources, and financial status, if the children's eligibility for the benefits is based on the parents' income falling below a certain threshold." However, receipt of benefits by a family member does not need to be reported on the adjustment of status form. Parents' employment and earnings are also important components of the totality of circumstances determination.

In both scenarios, DHS also clarified in the preamble and in subsequent guidance that it will only consider receipt of means-tested child care, child development, and child education programs funded by the government on or after the effective date of the final rule.

## What should early childhood partners communicate to providers, parents, and anyone else who works with immigrant families?

Partners who work with immigrant families will likely receive questions from parents who are concerned about their children's use of benefits, or how accessing federally funded child care programs may affect their immigration status or citizenship application. To continue to serve as a trusted source of information, partners must be able to answer basic questions and point parents in the right direction for more complicated questions.

- **The use of public benefits alone does not automatically make you a public charge.** The guidance is clear that benefit use is only one factor in a public charge determination.
- **It's important to keep in mind that this policy change doesn't directly impact many people in immigrant families.** A number of immigration statuses are not included in public charge tests. Parents should seek legal advice if they have a question about whether they are subject to public charge rules.
- **Direct parents and families to reliable information, including legal expertise, that can give them specifics relevant to their status.** These rules are complicated, and while we are working hard to provide the latest and most comprehensive guidance based on available information, we cannot provide legal advice. Community members should consult a trusted immigration attorney or accredited legal representative before making important decisions, especially before leaving the United States or applying for a green card. Families who don't have a clear answer on applicability should be referred to legal support and reminded that they should do what is best for themselves and their families based on their individual circumstances.

**Share resources with parents and families.** Our goal is to make sure people have accurate and timely information so they can make informed decisions, not decisions based on fear or rumors.

## Resources

- \* **Protecting Immigrant Families Coalition (PIF): Public Charge Toolkit**
- \* **PIF: 2026 DHS Public Charge Rule FAQ**
- \* **PIF: Public Charge ‘Does This Apply to Me?’**
- \* **PIF: Public Charge: What Advocates Need to Know**
- \* **CLASP: Safe Spaces Guide**
- \* CLASP **fact sheet** on immigrant eligibility for child care programs
- \* CLASP **blog** on immigrant eligibility for child care programs
- \* **Online screening tool** with state-specific resources to help community members and legal practitioners understand public charge applicability
- \* **NILC: Public Charge Applicability Tables**