



# FACT SHEET

## Final Rule on Public Charge

This fact sheet is intended for immigrant communities, advocates, survivors, and allies. This should help clarify the confusion caused by recent changes to programs associated with public charges. We are providing this fact sheet because Esperanza United believes it is critical that individuals have access to accurate information on what services are safe to use when seeking help for gender-based violence.

### This fact sheet includes

- Update on public charge with important dates
- What is public charge?
- Exempt groups from public charge
- An explanation of the “chilling effect”
- What led to confusion around public charge and the impacts on gender-based violence

### 2022 update

On September 9, 2022, the Biden Administration announced that United States Citizenship and Immigration Services (USCIS) will publish a [final rule](#) on the **public charge that is set to go into effect on December 23, 2022**. However, the concept of Public charge remains in effect. [The 1999 Interim Field Guidance](#) on public charge has been restored and is now in effect (the policy in place prior to the Trump Administration’s 2019 Public charge rule).

*Esperanza United has chosen to use “@” in place of the masculine “o” when referring to people or things that are either gender neutral or both masculine and feminine in make-up. This decision reflects our commitment to gender inclusion and recognizes the important contributions that both men and women make to our communities.*

### What is public charge?

There is a lot of confusion about what a public charge is and how it is implemented. A “public charge” is a ground of inadmissibility. Grounds of inadmissibility are reasons a person could be denied a green card, visa, or admission into the United States. During the decision-making process, an immigration officer must decide whether that person will likely become dependent on certain government benefits in the future, making them a “Public charge.” This is done by the [totality of circumstances](#) test. This test considers the individual’s age, health, family status, assets, resources, financial status, education and skills, and affidavit of support. The Department of Homeland Security (DHS) also



proposed that all written denial decisions be issued by the United States Citizenship and Immigration Services (USCIS). For more information on what is likely at any time to become a public charge, please refer to the [1999 Interim Field Guidance](#) also listed above.

## Immigrant survivors who are exempt from public charge

- It never applies to U.S. citizens, including the children of immigrants.
- It also does not apply to most people with a green card; or asylees, refugees, people with U visas, T visas, VAWA, and many others.
- VAWA self-petitioners and survivors who have applied for or have been granted a T or U status are generally exempt from a public charge assessment, regardless of their ultimate pathway to a green card.

The new rule includes a [helpful list](#) of the categories of noncitizens who are exempt from a public charge determination, including people applying for or granted asylum, refugee status, or TPS; special immigrant juveniles; and Afghan or Iraqi special immigrant visa holders.

## “Chilling effect” of the public charge on immigrant survivors

Misinformation and fear persist among immigrant communities, including immigrant survivors, which has led to a “chilling effect.” The chilling effect refers to the avoidance of non-cash benefits programs or other assistance because of fear that it would harm their future green card status, or immigration status or enforcement.

COVID-19 has compounded systemic barriers and inequities amongst underserved populations, including Latin@ survivors. The widespread impacts of the chilling effects led to immigrant survivors forfeit enrolling in critical health and nutrition programs such as Supplemental Nutrition Assistance Program (SNAP) and Medicaid. Advocates cited stories from survivors of gender-based violence who stated they did not enroll in programs such as transitional housing, food pantry assistance, sexual assault forensic exams, and counseling services due to the inadmissibility of public charge.

## What led to confusion around public charge

In 2018, the Trump administration expanded the public charge rule, to spur the use of many non-cash benefits including Medicaid, SNAP, and housing assistance as penalties against immigrants, blocking them from receiving U.S. permanent residency (e.g., visa or green card denial). This rule took place in 2019 and led to a chilling effect at the outset of the COVID-19 pandemic, where many rightful beneficiaries, including immigrant survivors of gender-based violence, avoided seeking critical programs and services out of fear of deportation, detention, or family separation.

The domestic violence program has an opening in its transitional housing. I'm worried that if I use it, I might hurt my immigration status.

Housing, DV shelters, and victim services are not cash assistance for income maintenance and should not be considered in public charge maintenance.

I am worried that seeking medical support for my sexual assault will impact my visa.

The use of medical services and free counseling will not be considered in a public charge assessment.

Can I get COVID tests and vaccines? I was just granted asylum status and I am worried it will stop me from getting my green card.

The public charge test does not apply to asylees. In addition, USCIS has said COVID-related benefits will not impact your green card application.

I only speak Spanish and I want to enroll in English as Second Language classes offered in my local school/community center. Will enrolling in these classes impact my status?

Use of free educational services will not be considered during a public charge assessment.



## Important information to share with immigrant survivors and their families

### Dates:

- This final rule is effective December 23, 2022. This final rule will apply to applications postmarked on or after the effective date.
- Advocates should advise immigrant survivors and other immigrant communities to **file** after **December 23, 2022** or they can fall under the 2019 rule.

It is important for individuals to get advice from [reputable immigration attorneys](#) who can advise them about the public charge ruling and its potential impact on immigrants.

### For further information contact

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### Resources

- [Public Charge Rule Changes, Explained | Community Service Society of New York.](#)
- [Public Charge - Feb 16, 2022 for web posting](#)
- [Immigrant Essential Workers Likely Avoided Medicaid and SNAP Because Of A Change To The Public Charge Rule \(pdf\)](#)
- [How Do Recent 'Public Charge' Policy Changes Impact Immigrant Survivors of Crime?](#)
- [YOUR RIGHTS UNDER SECTION 504 OF THE REHABILITATION ACT What Is Section 504? Who Is Protected from Discrimination?](#)
- [Federal Register :: Public Charge Ground of Inadmissibility](#)
- [Latinos Face Disproportionate Health and Economic Impacts From COVID-19 - Center for American Progress](#)