

Appendix: Totality of the Circumstances Framework

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Step-by-Step Approach

Important Note: If the applicant is required to submit an Affidavit of Support Under Section 213A of the INA and fails to submit such an Affidavit of Support or if that Affidavit of Support does not meet the requirements of section 213A of the Act and 8 CFR 213a, the applicant is inadmissible as likely to become a public charge. In this instance, the officer must not conduct a totality of circumstances assessment and deny the adjustment of status application.

Step 1. Evaluate all of the facts, circumstances, and evidence in the record to determine whether factors in the analysis are positive or negative. Some factors may be interrelated.

- Any factor that decreases the applicant's future likelihood of receiving one or more public benefits above the threshold (more than 12 months in the aggregate in a 36-month period (such that, for instance, receipt of two benefits in 1 month counts as 2 months) is positive.
- Any factor that increases the applicant's future likelihood of receiving one or more public benefits above threshold is negative.

Step 2. Weigh all factors individually and cumulatively. Assess the weighted degree to which each factor that is negative or positive.¹

- Certain enumerated factors will weigh heavily in favor of finding that an alien is not likely to become a public charge or finding that an alien is likely to become a public charge.
- The weight given to an individual factor not designated a heavily weighted factor depends on the particular facts and circumstances of the case and the relationship of the individual factor to other factors in the analysis.
- Multiple factors operating together will carry more weight to the extent those factors in tandem show that the alien is more or less likely than not to become a public charge in the future.

¹ The extent to which the factor alone and in relation to others factors affects the likelihood that the alien will or will not receive one or more public benefits, as defined in [8 CFR 212.21\(b\)](#), at any time in the future for more than 12 months in the aggregate within any 36 month period (such that receipt of two benefits in one month counts as two months).

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<p>Step 3. Determine whether the applicant is likely or not likely to become a public charge at any time in the future</p> <ul style="list-style-type: none"> • <i>Not inadmissible based on public charge</i> – The applicant’s positive factors outweigh the applicant’s negative factors, such that the alien is not likely to receive one or more public benefits above the designated threshold at any time in the future. • <i>Inadmissible based on public charge</i> – The applicant’s negative factors outweigh the alien's positive factors, such that the alien is more likely than not to receive one or more public benefits above the designated threshold at any time in the future.

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Factor	Positive	Negative	Heavily Weighted Positive	Heavily Weighted Negative
Applicant’s Age	<ul style="list-style-type: none"> • Age between 18 and 61 	<ul style="list-style-type: none"> • Age 17 and younger • Age 62 and older 	None	None
Applicant's Health	<ul style="list-style-type: none"> • No diagnosed medical issues 	<ul style="list-style-type: none"> • Form I-693 (DOS medical examination report or any other medical documentation) lists a Class A 	None	None

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Factor	Positive	Negative	Heavily Weighted Positive	Heavily Weighted Negative
		medical condition ² or a Class B medical condition ³ that the civil surgeon, panel physician, or other medical professional indicates is significant enough to interfere with the applicant’s ability to provide and care for him or herself, or to attend school, or to work, or that is likely to require extensive medical treatment or institutionalization in the future.		

³ See [42 CFR 34.2\(e\)](#).

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Factor	Positive	Negative	Heavily Weighted Positive	Heavily Weighted Negative
Family Status	<ul style="list-style-type: none"> The alien is able to support him or herself and his or her members at or above 125 percent of the FPG (100 percent for active duty military, other than active duty for training, in the U.S. armed forces) for the alien's household size. 	<ul style="list-style-type: none"> The alien is not able to support him or herself and his or her members at or above 125 percent of the FPG (100 percent for active duty military, other than active duty for training, in the U.S. armed forces) for the alien's household size. 	None	None
Applicant's Assets, Resources, and Financial Status	<ul style="list-style-type: none"> Current employment Total household gross income at or above 125 percent of the FPG (100 percent for those on active duty, other than active duty for training, in the U.S. armed forces) Financial resources that would make the 	<ul style="list-style-type: none"> No income or assets Request or Receipt of public benefits in the United States as defined Any previous bankruptcy within the last 2 years Request or receipt of a fee waiver for immigration benefits 	<ul style="list-style-type: none"> Receipt, certification, or approval of public benefits for more than 12 months in any 36-month period starting before the application of adjustment of status, (calculate no earlier than October 15, 2019) 	<ul style="list-style-type: none"> Household Income, Assets, Resources or Support at or above 250 percent of the FPG Authorized to work and currently employed in a legal industry with an annual income of at least 250 percent of the FPG

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	<p>applicant ineligible to obtain means-tested public assistance</p> <ul style="list-style-type: none"> • Total Household assets and resources in the applicable equivalent amount • Good, very good or exceptional credit score • Any health insurance, not considered a public benefit, or sufficient income, assets or resources to pay for reasonably foreseeable medical costs 	<ul style="list-style-type: none"> • Poor credit score • No private health insurance or sufficient income, assets or resources to pay for reasonably foreseeable medical costs 	<ul style="list-style-type: none"> • Private health insurance appropriate for the expected period of admission, (not including health insurance for which the alien receives subsidies in the form of premium tax credits under the Patient Protection and Affordable Care Act, as amended) 	<ul style="list-style-type: none"> • Medical condition and is uninsured and either lacks the prospect of obtaining private health insurance or lacks the financial resources to pay for reasonably foreseeable medical costs related to such medical condition
Applicant's Education and Skills	<ul style="list-style-type: none"> • Attendance in elementary, middle or high school • High School Diploma or GED or equivalent 	<ul style="list-style-type: none"> • No high school diploma or GED or equivalent • No work experience 	<ul style="list-style-type: none"> • The alien is not a full-time student and is authorized to work, but is unable to demonstrate current employment, 	<ul style="list-style-type: none"> • The alien is authorized to work and is currently employed in a legal industry with an annual income of at least 250 percent of

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Factor	Positive	Negative	Heavily Weighted Positive	Heavily Weighted Negative
	<ul style="list-style-type: none"> • Higher Education such as Bachelor's Degree, Master's Degree, or Doctoral Degree • Skills and certifications relevant to education • Basic English proficiency • Primary Caregiver • Other language skills in addition to English 	<ul style="list-style-type: none"> • No occupational skills • Limited to no English language proficiency 	<p>recent employment history, or a reasonable prospect of future employment</p>	<p>the FPG for the alien's household size</p>
<p align="center">Summary of Immigration Status and expected Period</p>	<ul style="list-style-type: none"> • The applicant provides evidence of ineligibility for public benefits based on immigration status 	<ul style="list-style-type: none"> • Seeking adjustment of status as a lawful permanent resident 	<p align="center">None</p>	<p align="center">None</p>

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	or expected period of stay			
Sponsor's Ability to Support	<p>The following provide for more positive weight:</p> <ul style="list-style-type: none"> • Sponsor's income and assets at or above 125 percent of the FPG (100 percent for active duty military, other than active duty for training, in the U.S. armed forces) • The applicant has a relationship with the sponsor 	<p>The following provide for less the positive weight:</p> <ul style="list-style-type: none"> • Sponsor's receipt of public benefits in the United States • Sponsor has a previous bankruptcy • Sponsor received a fee waiver for immigration benefits 	None	None
Previous Public Charge Inadmissibility	None	None	Having previously been found inadmissible or deportable on the public charge ground by an immigration judge or by the Board of Immigration Appeals	None