
Update on Public Charge

Last Updated: March 26, 2021

On July 29, 2020, the United States District Court for the Southern District of New York enjoined the Department of State from “enforcing, applying, implementing, or treating as effective” the Department’s October 2019 interim final rule and accompanying Foreign Affairs Manual guidance related to the public charge ground of visa ineligibility. The Department has updated its guidance to consular officers on how to proceed while the October 2019 interim final rule and January 2018 Foreign Affairs Manual (FAM) guidance are enjoined. Under this guidance, when consular officers adjudicate applications, they will apply the public charge standard that had been in effect prior to these changes.

In addition, on February 2, 2021, President Biden signed Executive Order 14012, *Restoring Faith in Our Legal Immigration Systems and Strengthening Integration and Inclusion Efforts for New Americans* (“EO 14012”), requiring, among other things, that the Department, in consultation with U.S. government agencies, immediately review all actions related to the implementation of the public charge ground of inadmissibility. If the interagency review required by EO 14012 results in any change to applicable policy, the Department will issue further guidance.

The Department of Homeland Security has reinstated Form I-864W, Request for Exemption for Intending Immigrant’s Affidavit of Support, which allows certain applicants to seek an exemption from the affidavit of support requirement. These applicants include: (1) individuals who have earned or can receive credit for 40 quarters of coverage under the Social Security Act (SSA), (2) children who will become U.S. citizens upon entry to the United States, (3) self-petitioning widow(er)s, and (4) self-petitioning battered spouses and children. These applicants will be required to submit Form I-864W if seeking an exemption from the affidavit of support requirement.

Applicants seeking this exemption should download the I-864W <https://www.uscis.gov/i-864w> and either upload the completed form to the Consular Electronic Application Center (CEAC) with other supporting documentation as part

of the IV application or bring the completed form to the interview with the consular officer. Visa applicants are otherwise not requested to take any additional steps at this time and should attend their visa interviews as scheduled. Applicants are not required to complete, nor should they present, the DS-5540, Public Charge Questionnaire.