

**Protecting Immigrant Families
Advancing Our Future Campaign**
Responding to the 9/22 Public Charge News

CLASP

Policy Solutions That Work For Low-Income People



NATIONAL
IMMIGRATION
LAW CENTER

Agenda

- What Has Happened in Past 48 Hours
- Overview of Existing Public Charge Policy
- How This May Change Under Draft NPRM Posted Saturday Night
- What Happens Next
- PIF Campaign Rapid Response Plans
- Messaging
 - Public Messaging
 - What to Tell Immigrant Families
- Initial FAQs

- Story broke on Saturday evening
- DHS issued press release and rule text
- NILC and CLASP issued press statements, held telephonic press briefing
- Partners began issuing statements
- PIF Campaign Rapid Response Plan in full swing!



Homeland Security

Press Release:

“DHS Announces New Proposed Immigration Rule to Enforce Long-Standing Law that Promotes Self-Sufficiency and Protects American Taxpayers”

The Last 48 Hours

The New York Times
The Washington Post

BuzzFeed **CNN**

Bloomberg **THE HILL**
 **REUTERS**

Los Angeles Times **THE WALL STREET JOURNAL.**


NBC NEWS

POLITICO

TIME **AP**



PUBLIC CHARGE

Current Law and How This May Change

Public charge today

Definition

“Public Charge” is a term used by U.S. immigration officials to refer to a person who is considered likely to become primarily dependent on the government for subsistence.

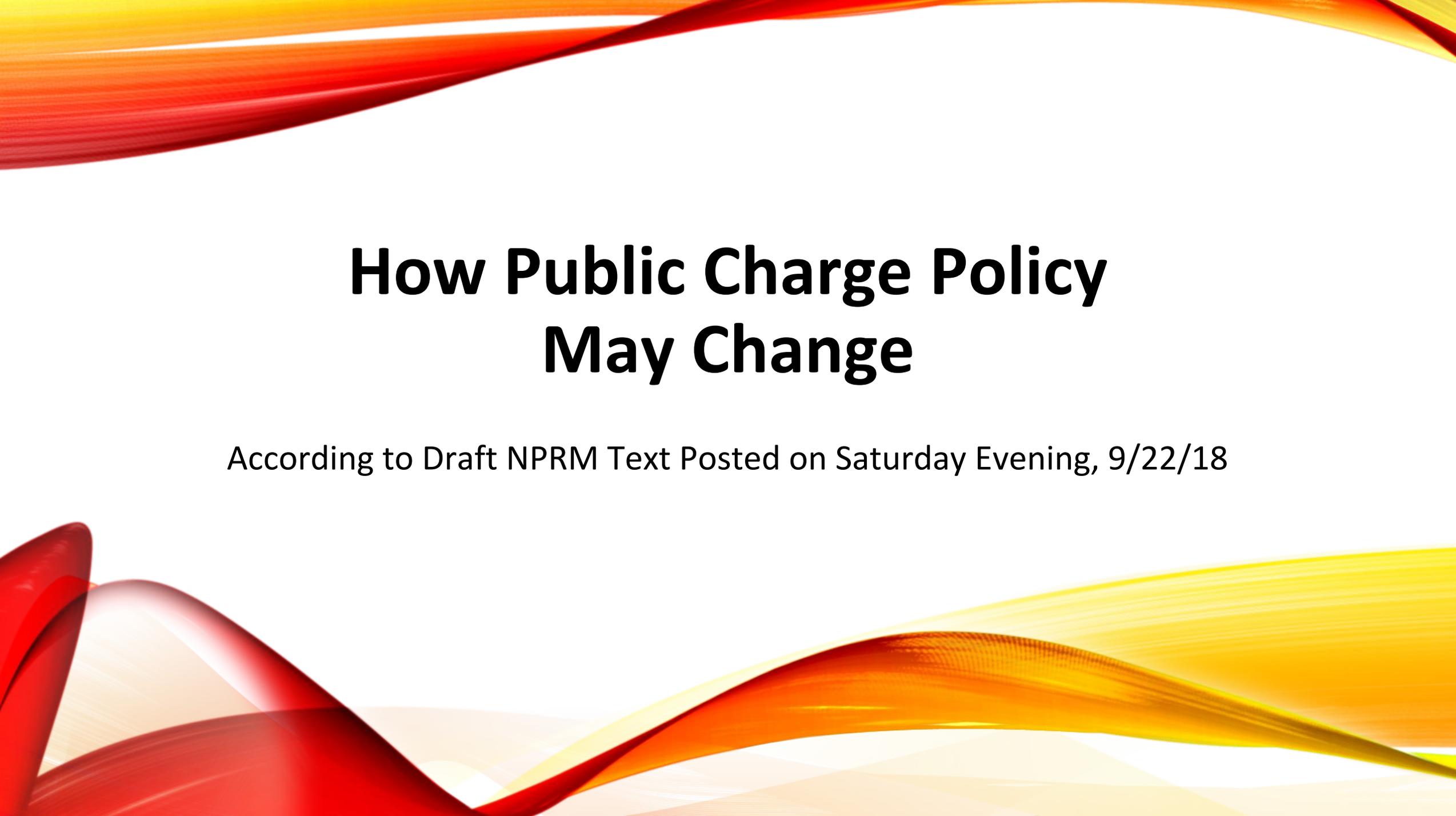
Totality of Circumstances Test

- ✓ Age
- ✓ Health
- ✓ Family status
- ✓ Financial status
- ✓ Education and skills
- ✓ Affidavit of support

Pre-NPRM Benefits Considered

Test only triggered in 2 situations:

1. Cash assistance for income maintenance
2. Institutionalization for long-term care



How Public Charge Policy May Change

According to Draft NPRM Text Posted on Saturday Evening, 9/22/18



New definition of public charge

A “public charge” is an immigrant who receives one or more public benefits.

Definition of public benefit

Public Benefit Defined As:

- Non-Emergency Medicaid*
- SNAP
- Medicare Part D Low Income Subsidy
- Housing Assistance (public housing or Section 8 housing vouchers and rental assistance)

* Note: Exception for certain disability services offered in school, and for Medicaid benefits received by children of U.S. citizens who will be automatically eligible to become U.S. citizens

Public Benefit Not Defined As:

- Disaster relief
- Emergency medical assistance*
- Entirely state local or tribal programs (other than cash assistance)
- Benefits received by immigrant's family members
- Any other benefit not specifically listed in the proposed rule

*Note: DHS asks for input on inclusion of CHIP, but the program is not included in the regulatory text.



Changes not retroactive

Other than cash or long-term care at government expense, benefits used ***before*** rule final and effective will not be considered in the public charge determination.

Children's Use of Benefits

- The receipt of public benefits by U.S. citizen children will not directly be a factor in a parents' public charge test.
- If a child is an immigrant, his/her own use of benefits counts toward his/her own public charge determination.



Income considerations

- New income threshold for households that hope to overcome a “public charge” test.
- Requires that the immigrant (not just the sponsor) earn at least 125 % of FPL
- Weighs as “heavily positive” a household income of 250% of FPL
 - To avoid scrutiny under the public charge test, a family of 4 would need to earn nearly \$63,000 annually.



When the public charge test applies

Applies

At green card determination or when seeking to enter the U.S. with a visa.

Does NOT Apply

To immigrants, such as refugees, asylees, and survivors of domestic violence.

Not a consideration when lawful permanent residents (green card holders) apply for U.S. citizenship.

What we don't know yet

- We will not be able to provide a full analysis of these changes until we see the actual text of the proposed rule in the Federal Register.
- This proposed rule has not yet been published, so the draft rule that DHS posted on Saturday night could change when it is published.



WHAT HAPPENS NEXT

And How You Can Fight Back

How the rule will move forward

- 1 Proposed rule published in Federal Register for public inspection
- 2 Proposed rule published for public comment on Regulations.gov
- 3 60 day opportunity for Public Comment
- 4 DHS reads and considers all comments
- 5 Final rule published in the Federal Register

PIF Campaign Rapid Response Plans

What's happened so far

- Saturday night & Sunday morning emails to all partners
- Sunday morning press call
- New resources available
 - [Quick analysis document](#)
 - Updated [talking points](#) and a [social media toolkit](#)
 - Updated [public charge 2 pager](#)
- Monday morning telephonic Hill briefing

Coming soon

- Updated documents, including community education resources
- Release updated organizational [sign-on statement](#) opposing the rule.
 - Deadline to join is **Mon, Sept 24 at 5pm ET**
- MomsRising Facebook Live - Monday @ 8pm ET
- Comment website goes live

The Public Comment Period

Help us reach our goal of 100,000 comments!

- **Who can comment?**
 - Anyone!
 - Individuals, organizations, community providers
 - Elected officials, including members of Congress
- **How to comment?**
 - Submit comment on Regulations.gov.
 - Through PIF comment microsite -- stay tuned!
- **What to say?**
 - **Templates available soon**
 - [Comment FAQ document](#)
- **When to comment?**
 - Comments must be submitted during the 60-day window



What you can do now

1. Join Us! www.protectingimmigrantfamilies.org/takeaction
2. Share your story at <http://bit.ly/PIFstory>
3. Speak up on social media using #ProtectFamilies
4. Sign on to our opposition statement at bit.ly/PublicChargeRuleSignOn
5. Prepare to **FIGHT BACK and COMMENT!**



MESSAGING

How to Talk About These Changes

Key Public Messages

Message Must Haves:

- **Start with a shared value:** How you live your life and contribute to your community should define you in this country, not how you look or how much money you have.
- **Explain how Trump's proposed regulation is an affront to those values.** This regulation puts the wealthy ahead of families who've waited years to be reunited.
- **Call for people to speak out and fight back.** People can share their stories and spread the word. And when the time comes, people should send a comment!

Key Public Messages

Talking Points on Narrowed Rule

- If finalized this regulation would be a significant and **harmful departure from the current policy**
- **Not helpful to compare the latest rule to the March leaked draft.** This allows the Trump Administration to move the goal posts – normalizing terrible proposals by comparing them with even more terrible ones
- Parent and child health are inextricably linked. Parents who report they are in good health are more likely to have children who are in good health. **There is no way to target individual immigrants without hurting children, families, and communities. Hurting parents hurts children. Hurting families hurts communities.**

Key Messages for Families

You are not alone, and there's still time to fight back

- The policy on public charge decisions made within the U.S. has not yet changed.
- The proposed rule is still a draft. Once posted, the federal agency must accept and respond to comments. It will not be take effect until after it becomes final, which will take additional time.
- Not all immigrants are subject to the public charge test.
- The test looks at all the person's circumstances, weighing positive factors against any negative ones.
- Get help deciding what's best for your family and, if you can, consult with an immigration attorney or a Board of Immigration Appeals–accredited representative about your own situation.



Frequently Asked Questions

FAQs

- **Will the rule affect green card holders when they renew their cards?**

A person's lawful permanent residence does not expire when the green card expires. Since there is no new admissions test when a person renews their green card, the public charge ground of inadmissibility would not apply at that stage.

- **How will the rule affect individuals with disabilities?**

DHS would negatively consider applicants that have physical or mental health conditions that could affect their ability to work, attend school or care for themselves.

FAQs

- **Are educational programs included?**

No. Non-cash benefits that provide education, child development, and employment and job training are excluded from the public charge determination under current law and in the proposed rule.

- **Will people be deported if they become a public charge?**

In extremely rare circumstances, a person who has become a public charge can be deported. The proposed rule does not interpret or expand the public charge ground of deportability. Parallel rulemaking by the Department of Justice is possible.



Have more questions?

**Please submit your questions in our
[FAQ Form](http://bit.ly/askPIFcampaign) (bit.ly/askPIFcampaign)**

Someone from the campaign
will respond to you within 72 hours.

JOIN US!



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www.protectingimmigrantfamilies.org