



Alert

On Nov. 2, 2020, the U.S. District Court for the Northern District of Illinois vacated the Inadmissibility on Public Charge Grounds final rule, 84 Fed. Reg. 41,292 (Aug. 14, 2019), as amended by Inadmissibility on Public Charge Grounds; Correction, 84 Fed. Reg. 52,357 (Oct. 2, 2019) (“Public Charge Final Rule”) nationwide. That decision was stayed by the U.S. Court of Appeals for the Seventh Circuit. On Mar. 9, 2021, the Seventh Circuit lifted its stay and the U.S. District Court for the Northern District of Illinois’ order vacating the Public Charge Final Rule went into effect.

USCIS immediately stopped applying the Public Charge Final Rule to all pending applications and petitions that would have been subject to the rule. USCIS continues to apply the public charge inadmissibility statute, including consideration of the statutory minimum factors in the totality of the circumstances, in accordance with the 1999 [Interim Field Guidance](#) that was in place before the Public Charge Final Rule was implemented on Feb. 24, 2020, to the adjudication of any application for adjustment of status. In addition, USCIS will no longer apply the separate, but related, “public benefits condition” to applications or petitions for extension of nonimmigrant stay and change of nonimmigrant status.

On or after Mar. 9, 2021, applicants and petitioners should not provide information required solely by the Public Charge Final Rule. That means that applicants for adjustment of status should not provide the Form I-944, Declaration of Self-Sufficiency, or any evidence or documentation required on that form with their Form I-485. Applicants and petitioners for extension of nonimmigrant stay and change of nonimmigrant status should not provide information related to the receipt of public benefits on Form I-129 (Part 6), Form I-129CW (Part 6), Form I-539 (Part 5), and Form I-539A (Part 3).

If an applicant or petitioner has already provided such information, and USCIS adjudicates the application or petition on or after Mar. 9, 2021, USCIS will not consider any information provided that relates solely to the Public Charge Final Rule, including, for example, information provided on the Form I-944, evidence or documentation submitted with Form I-944, or information on the receipt of public benefits on Form I-129 (Part 6), Form I-129CW (Part 6), Form I-539 (Part 5), and Form I-539A (Part 3).

If you received a Request for Evidence (RFE) or Notice of Intent to Deny (NOID) requesting information that is solely required by the Public Charge Final Rule, including but not limited to Form I-944, and your response is due on or after Mar. 9, 2021, you need not provide the information solely required by the Public Charge Final Rule. You do, however, need to respond to the aspects of the RFE or NOID that otherwise pertain to the eligibility for the immigration benefit sought. If USCIS requires additional information or evidence to make a public charge inadmissibility determination under the statute and consistent with the 1999 [Interim Field Guidance](#), it will issue a subsequent RFE or NOID. or information about the relevant court decisions, please see the [litigation summary](#).

USCIS will issue additional guidance regarding the use of affected forms. In the interim, USCIS will not reject any Form I-485 on the basis of the inclusion or exclusion of Form I-944, and will not reject Form I-129, Form I-129CW, Form I-539, or Form I-539A based on whether the public benefits questions (Form I-129 (Part 6), Form I-129CW (Part 6), Form I-539 (Part 5), and Form I-539A (Part 3) have been completed or left blank.

Appendix: Applicability of INA 212(a)(4) to Refugee, Asylee, and Parolee Adjustment of Status Applications

Applicability of INA 212(a)(4) to Refugee, Asylee, and Parolee Adjustment of Status Applications

Category	Subject to INA 212(a)(4) and must file Form I-944, Declaration of Self-Sufficiency? *	INA 213A, and Form I-864, Affidavit of Support Under Section 213A of the INA, Required or Exempt?
Asylees ¹	No, per INA 209(c)	Exempt, per INA 209(c)
Indochinese Parolees from Vietnam, Cambodia, and Laos IC-6 Indochinese refugees (Pub. L. 95-145 of 1977) IC-7 Spouses or children of Indochinese refugees not qualified as refugees on their own	No, per Section 586 of Pub. L. 106-429 (November 6, 2000)	Exempt, per Section 586 of Pub. L. 106-429 (November 6, 2000)
Polish and Hungarian Parolees (Poland or Hungary who were paroled into the United States from November 1, 1989 to December 31, 1991) ²	No, per Title VI, Subtitle D, Section 646(b), Pub. L. 104-208 (September 30, 1996); 8 CFR 245.12	Exempt, per Title VI, Subtitle D, Section 646(b), Pub. L. 104-208 (September 30, 1996); 8 CFR 245.12
Refugees ³	No, per INA 207(c)(3) and INA 209(c)	Exempt, per INA 207 and INA 209(c)
Cuban-Haitian Entrant under IRCA- CH-6, CH-7 ⁴	No, per Section 202 of Pub. L. 99-603, 100 Stat. 3359 (November 6, 1986) (as amended), 8 U.S.C. 1255a	Exempt, per Section 202 of Pub. L. 99-603, 100 Stat. 3359 (November 6, 1986) (as amended), 8 U.S.C. 1255a

¹ Including the following categories: AS-6 Asylees; AS-7 Spouses of AS-6; AS-8 Children of AS-6; SY-8 Children of SY-6; GA-6 Iraqi asylees; GA-7 Spouses of GA-6; GA-8 Children of GA-6.

² Note that this program does not have a specific sunset date and technically applicants could apply but should have already applied.

³ Includes the following categories: RE-6 Other refugees (Refugee Act of 1980, Pub. L. 96-212, 94 Stat. 102 (Mar. 17, 1980)); RE-7 Spouses of RE-6; RE-8 Children of RE-6; RE-9 Other relatives.

⁴ Note that this program has a sunset date of 2 years after enactment, however, some cases may still be pending.

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Applicability of INA 212(a)(4) to Refugee, Asylee, and Parolee Adjustment of Status Applications

Category	Subject to INA 212(a)(4) and must file Form I-944, Declaration of Self-Sufficiency? *	INA 213A, and Form I-864, Affidavit of Support Under Section 213A of the INA, Required or Exempt?
HRIFA - Principal HRIFA Applicant who applied for asylum before December 31, 1995 ⁵	No, per Section 902 of Pub. L. 105-277, 112 Stat. 2681 (October 21, 1998), 8 U.S.C. 1255.	Exempt, per Section 902 of Pub. L. 105-277, 112 Stat. 2681 (October 21, 1998), 8 U.S.C. 1255.
<p>* If an alien is found inadmissible based on the public charge ground, USCIS, at its discretion, may permit the alien to post a Public Charge Bond (Form I-945). 8 CFR 213.1, as amended in the final rule, describes the circumstances under which a public charge bond may be cancelled using a Request for Cancellation of Public Charge Bond (Form I-356).</p>		

⁵ Includes the following categories: 1995 - HA-6 Principal HRIFA Applicant; Spouse of HA-6, HA-7 and Child of HA-6, HA-8; Unmarried Son or Daughter 21 Years of Age or Older of HA-6, HA-9 Principal HRIFA Applicant paroled into the United States before December 31, 1995- HB-6; Spouse of HB-6, HB-7; Child of HB-6, HB-8; Unmarried Son or Daughter 21 Years of Age or Older of HB-6 HB-9; Principal HRIFA Applicant who arrived as a child without parents in the United States HC-6; Spouse of HC-6, HC-7; Child of HC-6, HC-8; Unmarried Son or Daughter 21 Years of Age or Older of HC-6, HC-9; Principal HRIFA Applicant child who was orphaned subsequent to arrival in the United States HD-6, Spouse of HD-6, HD-7; Child of HD-6, HD-8; Unmarried Son or Daughter 21 Years of Age or Older of HD-6, HD-9 Principal HRIFA Applicant child who was abandoned subsequent to arrival and prior to April 1, 1998 - HE-6; Spouse of HE-6, HE-7; Child of HE-6, HE-8; Unmarried Son or Daughter 21 Years of Age or Older of HE-6, HE-9. Note that this program has a sunset date of March 31, 2000; however, dependents may still file for adjustment of status.