



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 Special Immigrant Adjustment of Status Applications

Applicability of INA 212(a)(4) to Special Immigrant 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?
Special Immigrant (EB-4)- Religious Workers ¹ 8 CFR 204.5(m); INA 101(a)(27)(C)	Yes, per INA 212(a)(4)	Not Applicable ²
Special Immigrant (EB-4) – International employees of US government abroad ³ INA 101(a)(27)(D), 22 CFR 42.32(d)(2)	Yes, per INA 212(a)(4)	Not Applicable ⁴
Special Immigrant (EB-4) Employees of Panama Canal ⁵ 22 CFR 42.32(d)(3); INA 101(a)(27)(E), INA 101(a)(27)(F), and INA 101(a)(27)(G)	Yes, per INA 212(a)(4)	Not Applicable ⁶

¹ Includes the following categories: SD-6 Ministers; SD-7 Spouses of SD-6; SD-8 Children of SD-6; SR-6 Religious workers; SR-7 Spouses of SR-6; SR-8 Children of SR-6.

² For this category, although the applicants are subject to public charge under [INA 212\(a\)\(4\)](#), the employers (for example, a religious institution), would generally not be a relative of the alien or a for-profit entity and therefore the requirements for an affidavit of support under INA 212(a)(4)(D) is inapplicable.

³ Includes the following categories: SE-6 Employees of U.S. government abroad, adjustments; SE-7 Spouses of SE-6; SE-8 Children of SE-6. Note that this program does not have a specific sunset date and technically applicants could apply but should have already applied.

⁴ For this category, although the applicants are subject to public charge under [INA 212\(a\)\(4\)](#), the employers (for example, the U.S. armed forces), would generally not be a relative of the alien or a for-profit entity and therefore the requirements for an affidavit of support under INA 212(a)(4)(D) is inapplicable.

⁵ Includes the following categories: SF-6 Former employees of the Panama Canal Company or Canal Zone Government; SF-7 Spouses or children of SF-6; SG-6 Former U.S. government employees in the Panama Canal Zone; SG-7 Spouses or children of SG-6; SH-6 Former employees of the Panama Canal Company or Canal Zone government, employed on April 1, 1979; SH-7 Spouses or children of SH-6. Note that this program does not have a specific sunset date and technically applicants could apply but should have already applied.

⁶ For this category, although the applicants are subject to public charge under [INA 212\(a\)\(4\)](#), the employers generally would not be a relative of the alien or a for-profit entity and therefore the requirements for an affidavit of support under INA 212(a)(4)(D) is inapplicable.

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Special Immigrant (EB-4) - Foreign Medical School Graduates ⁷ INA 101(a)(27)(H), INA 203(b)(4)	Yes, per INA 212(a)(4)	Not Applicable ⁸
Special Immigrant (EB-4) -Retired employees of International Organizations including G-4 International Organization Officer ⁹ International Organizations (G-4s international organization officer/ Retired G-4 Employee) ¹⁰ INA 101(a)(27)(I) and INA 101(a)(27)(L) ; 8 CFR 101.5; 22 CFR 42.32(d)(5); 22 CFR 41.24;22 CFR 41.25	Yes, per INA 212(a)(4)	Not Applicable ¹¹
Special Immigrant (EB-4) -SL-6 Juvenile court dependents, adjustments	No, SIJs are exempt under INA 245(h)	Not Applicable, per INA 245(h)

⁷ Includes the following categories: SJ-6 Foreign medical school graduate who was licensed to practice in the United States on Jan. 9, 1978; SJ-7 Spouses or children of SJ-6; Note that this program does not have a specific sunset date and technically applicants could apply but should have already applied.

⁸ For this category, although the applicants are subject to public charge under [INA 212\(a\)\(4\)](#), the employers would generally not be a relative of the alien or a for-profit entity and therefore the requirements for an affidavit of support under INA 212(a)(4)(D) is inapplicable.

⁹ Includes the following categories: SK-6 Retired employees of international organizations; SK-7 Spouses of SK-1 or SK-6; SK-8; Certain unmarried children of SK-6; SK-9 Certain surviving spouses of deceased international organization employees.

¹⁰ Includes SN-6 Retired NATO-6 civilian employees; SN-7 Spouses of SN-6; SN-9; Certain surviving spouses of deceased NATO-6 civilian employees; SN-8 Certain unmarried sons/daughters of SN-6.

¹¹ For this category, although the applicants are subject to public charge under [INA 212\(a\)\(4\)](#), the employers would generally not be a relative of the alien or a for-profit entity and therefore the requirements for an affidavit of support under INA 212(a)(4)(D) is inapplicable.

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Special Immigrant (EB-4)- U.S. Armed Forces Personnel ¹² INA 101(a)(27)(K)	Yes, per INA 212(a)(4)	Not Applicable ¹³
Special Immigrant - International Broadcasters ¹⁴ INA 101(a)(27)(M) ; 8 CFR 204.13	Yes, per INA 212(a)(4)	Not Applicable ¹⁵
Special Immigrant (EB-4) - Special immigrant interpreters who are nationals of Iraq or Afghanistan ¹⁶	No. Section 1059(a)(2) of the National Defense Authorization Act for Fiscal Year 2006, as amended, Pub. L. 109–163 (January 6, 2006), Section 1244(a)(3) of the National Defense Authorization Act for Fiscal Year 2008, as amended, Pub. L. 110–181 (January 28, 2008) Section 602(b) of the Afghan Allies Protection	Exempt. Section 602(b)(9) of the Afghan Allies Protection Act of 2009, Title VI of Pub. L. 111-8, 123 Stat. 807, 809 (March 11, 2009) which states that INA 245(c)(2), INA 245(c)(7), and INA 245(c)(8) do not apply to special immigrant Iraq and Afghan nationals who were

¹² Includes the following categories: SM-6 U.S. armed forces personnel, service (12 years) after 10/1/91 SM-9 U.S. armed forces personnel, service (12 years) by 10/91; SM-7 Spouses of SM-1 or SM-6; SM-0 Spouses or children of SM-4 or SM-9; SM-8 Children of SM-1 or SM-6.

¹³ For this category, although the applicants are subject to public charge under [INA 212\(a\)\(4\)](#), the employers would generally not be a relative of the alien or a for-profit entity and therefore the requirements for an affidavit of support under INA 212(a)(4)(D) is inapplicable.

¹⁴ Includes the following categories: BC-6 Broadcast (IBCG of BBG) employees; BC-7 Spouses of BC-1 or BC-6; BC-8 Children of BC-6.

¹⁵ For this category, although the applicants are subject to public charge under [INA 212\(a\)\(4\)](#), the employers would generally not be a relative of the alien or a for-profit entity and therefore the requirements for an affidavit of support under INA 212(a)(4)(D) is inapplicable.

¹⁶ Includes the following categories: SI-6 Special immigrant interpreters who are nationals of Iraq or Afghanistan; SI-6, SI-7, SI-8 - spouse and child of SI-6; SQ-6 Certain Iraqis and Afghans employed by U.S. Government SQ-6, SQ-7, SQ-8 Spouses and children of SQ-6; SI-6 Special immigrant interpreters who are nationals of Iraq or Afghanistan; SI-7 Spouses of SI-1 or SI-6; SI-8 Children of SI-1 or SI-6.

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	Act of 2009, as amended, Pub. L. 111-8 (March 11, 2009)	employed by or on behalf of the U.S. government (for Section 602(b) and 1244 adjustment applicants who were either paroled into the United States or admitted as nonimmigrants). See Section 1(c) of Pub. L. 110-36, 121 Stat. 227, 227 (June 15, 2007), which amended Section 1059(d) of the National Defense Authorization Act for Fiscal Year 2006, Pub. L. 109-163, 119 Stat. 3136, 3444 (January 6, 2006) to state that INA 245(c)(2), INA 245(c)(7), and INA 245(c)(8) do not apply to Iraq or Afghan translator adjustment applicants.

* 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).