



## 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.



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# Chapter 13 - Additional Support through Sponsorship

## Guidance

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### **i** Alert

On Sept. 11, 2020, the U.S. Court of Appeals for the Second Circuit issued a decision that allows DHS to resume implementing the [Public Charge Ground of Inadmissibility final rule](#) nationwide, including in New York, Connecticut and Vermont. The decision stays the July 29, 2020, [injunction](#), issued during the coronavirus (COVID-19) pandemic, that prevented DHS from enforcing the public charge final rule during a national health emergency.

Therefore, we will apply the public charge final rule and [related guidance](#) in the USCIS Policy Manual, Volumes [2](#), [8](#) and [12](#), to all applications and petitions postmarked (or submitted electronically) on or after Feb. 24, 2020. If you send your application or petition by commercial courier (for example, UPS, FedEx, or DHL), we will use the date on the courier receipt as the postmark date.

For information about the relevant court decisions, please see the public charge injunction [webpage](#).

## A. Background on Affidavit of Support Under INA 213A

The Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) created the requirement for a legally enforceable Affidavit of Support to reduce the potential for an intending immigrant to become a public charge.<sup>[1]</sup> When required, the applicant must complete Affidavit of Support Under INA 213A ([Form I-864](#)) or [Form I-864EZ](#).<sup>[2]</sup>

Form I-864<sup>[3]</sup> is a legally enforceable contract that a U.S. citizen, U.S. national, or lawful permanent resident (LPR) signs to accept financial responsibility for an alien, usually a relative, who is coming to the United States to live permanently. Form I-864<sup>[4]</sup> is legally binding and requires a sponsor to support the applicant at an annual income of no less than 125 percent of the [Federal Poverty Guidelines](#) (FPG).<sup>[5]</sup> The U.S. citizen, U.S. national, or LPR who signs the Form I-864 becomes the immigrant’s sponsor once the applicant becomes an LPR.

If required, the lack of a sufficient Form I-864 results in the applicant being found inadmissible under INA 212(a)(4) without regard to consideration of the factors set forth in the statute, regulation, and this guidance.<sup>[6]</sup>

For Form I-864 to be sufficient, a sponsor generally must demonstrate that he or she is able to maintain the sponsored alien at an annual income of not less than 125 percent of the FPG.<sup>[7]</sup> However, a sufficient Form I-864 does not guarantee that the alien will not receive public benefits in the future and, therefore, USCIS only considers it as one factor in the totality of the circumstances.<sup>[8]</sup> The presence of a sufficient Form I-864 does not eliminate the need to consider all of the mandatory factors in the totality of the circumstances.<sup>[9]</sup>

## B. Applicants Required to File

The Immigration and Nationality Act (INA) outlines which aliens are required to have a Form I-864.<sup>[10]</sup> Most aliens intending to immigrate or to adjust status as immediate relatives or other family-based preference categories, and in certain employment-based categories after December 19, 1997, are required to submit Form I-864 signed by a sponsor.<sup>[11]</sup>

Aliens who are required to submit an Affidavit of Support, and are not otherwise exempt, are inadmissible on the public charge ground if they do not submit the required Form I-864.<sup>[12]</sup>

### 1. Immediate Relatives and Other Family-Sponsored Immigrants

In general, most aliens applying for an immigrant visa or adjustment of status based on a family relationship are required to submit Form I-864. The following table outlines applicants by immigrant category who must submit Form I-864 unless otherwise exempt:

Immediate Relatives and Other Family-Sponsored Immigrants	
Immediate relatives of U.S. citizens	U.S. citizens’ parents, spouses, and unmarried children under the age of 21, including most orphans and Hague Convention adoptees <sup>[13]</sup>

Immediate Relatives and Other Family-Sponsored Immigrants	
First Preference	Unmarried sons and daughters of U.S. citizens who are 21 years of age or older, including their unmarried children <sup>[14]</sup>
Second Preference	Spouses, children, and unmarried sons and daughters of LPRs, including their unmarried children <sup>[15]</sup>
Third Preference	Married sons and married daughters of U.S. citizens, including their spouses and unmarried children <sup>[16]</sup>
Fourth Preference	Brothers and sisters of adult U.S. citizens, including their spouses and unmarried children <sup>[17]</sup>

All of these applicants are required to submit Form I-864, unless exempt from the requirement.

## 2. Certain Employment-Based Immigrants

In general, most aliens applying for an employment-based immigrant visa or adjustment of status are not required to file Form I-864.<sup>[18]</sup> Applicants seeking LPR status based on an employment-based petition are required to file Form I-864 if:

- The petitioner is a relative of the applicant;<sup>[19]</sup> or
- The petitioner is an entity<sup>[20]</sup> in which the applicant's relative has a significant ownership interest in the entity that filed the petition.<sup>[21]</sup>

These applicants are required to file Form I-864 unless an exception applies.

## 3. K Nonimmigrants<sup>[22]</sup>

Principal K nonimmigrants seeking adjustment of status must submit Form I-864.<sup>[23]</sup> This requirement also applies to an alien who seeks adjustment after having been admitted as the child of a principal K nonimmigrant.

Any applicant for adjustment of status based on a K nonimmigrant visa must submit a Form I-864 at the time of adjustment. Termination of the marriage between the K-1 beneficiary and the petitioner does not end the K-1 nonimmigrant's eligibility for adjustment.<sup>[24]</sup> A former spouse can still be the sponsor who submits the Form I-864 for a K-1 and a K-2 nonimmigrant to adjust status. However, if the former spouse does not submit the Form I-864, or timely withdraws one already submitted, the K-1 and K-2 nonimmigrants are inadmissible based on public charge.

## 4. Accompanying Spouse or Child

A spouse or child is considered to be accompanying a principal immigrant if:

- The spouse or child applies for an immigrant visa or adjustment of status at the same time as the principal immigrant; or
- The spouse or child applies for an immigrant visa or adjustment of status within 6 months after the date the principal immigrant acquires LPR status.

If the principal applicant is required to have a Form I-864, then any accompanying spouse or child must also be included on that Affidavit of Support. To meet the requirement, the accompanying spouse or child must submit a photocopy of the principal applicant's Form I-864. A photocopy of the principal's supporting documentation,<sup>[25]</sup> however, is not required.

## 5. Following-to-Join Spouse or Children

When a spouse or a child of a principal applicant applies for an immigrant visa or adjustment of status 6 months or more after the principal immigrant, the spouse or child is considered to be following-to-join the principal.

If the principal applicant is required to have a Form I-864, then the following-to-join spouse or child must also have a Form I-864. Each following-to-join spouse or child requires a Form I-864, independent of the principal applicant's Form I-864, at the time of adjustment of status or consular processing.

## 6. T and U Nonimmigrants, VAWA Self-Petitioners, and Certain Qualified Aliens Subject to Affidavit of Support<sup>[26]</sup>

In general, INA 212(a)(4)(E) provides that the following provisions do not apply to qualified alien victims:

- INA 212(a)(4)(A) (public charge inadmissibility, in general);
- INA 212(a)(4)(B) (minimum factors to be considered in the public charge inadmissibility determination); and
- INA 212(a)(4)(C) (inadmissibility for lack of sufficient Affidavit of Support for family-based immigrants).

A qualified alien victim<sup>[27]</sup> includes:

- A VAWA self-petitioner;
- An alien who is an applicant for, or is granted, U nonimmigrant status;<sup>[28]</sup> or
- A qualified alien,<sup>[29]</sup> such as an alien who has a pending application establishing prima facie eligibility for T nonimmigrant status or has been granted T nonimmigrant status.

When Congress created the current version of INA 212(a)(4)(E), it did not exempt qualified alien victims from the requirements under INA 212(a)(4)(D). INA 212(a)(4)(D) makes the alien inadmissible on public charge in employment-based cases,<sup>[30]</sup> unless the alien has a properly executed Form I-864 from the alien's relative if:<sup>[31]</sup>

- The alien's relative filed the employment-based petition; or
- The alien's relative has a significant ownership interest (of 5 percent or more) in the business or entity that filed the employment-based petition.

If the alien does not present a Form I-864, as required under INA 212(a)(4)(D) and INA 212(a)(4)(E), then the alien is inadmissible on account of public charge.

If such an alien is required to submit the Form I-864, the applicant cannot submit a Declaration of Self Sufficiency (Form I-944) instead to establish that he or she is not a public charge. The applicant must submit a sufficient Form I-864.<sup>[32]</sup>

## C. Applicants Not Required to File Form I-864

Certain applicants are not statutorily required to submit a Form I-864. Other applicants, although generally required to file a Form I-864 may be exempt from this requirement. Being exempt from the Form I-864 requirement is different from being exempt from the public charge inadmissibility ground.<sup>[33]</sup>

An officer still makes an inadmissibility determination for an applicant who is exempt from the Affidavit of Support filing requirement unless the alien is also exempt from the public charge ground of inadmissibility.<sup>[34]</sup> For a listing of categories subject to or exempt from the public charge ground of inadmissibility and the Affidavit of Support requirement, see:

- [Appendix: Applicability of INA 212\(a\)\(4\) to Family-Based Adjustment of Status Applications;](#)
- [Appendix: Applicability of INA 212\(a\)\(4\) to Employment-Based Adjustment of Status Applications;](#)
- [Appendix: Applicability of INA 212\(a\)\(4\) to Special Immigrant Adjustment of Status Applications;](#)
- [Appendix: Applicability of INA 212\(a\)\(4\) to Refugee, Asylee, and Parolee Adjustment of Status Applications;](#) and
- [Appendix: Applicability of INA 212\(a\)\(4\) to Other Applicants.](#)

## 1. Qualifying Quarters

An alien who has earned or can be credited with 40 qualifying quarters (credits) of work in the United States under the Social Security Act (SSA) is exempt from the requirement to file a [Form I-864](#).<sup>[35]</sup> A quarter, as defined by the Social Security Administration, is a period of 3 calendar months ending on March 31, June 30, September 30, or December 31.<sup>[36]</sup>

An alien can acquire 40 qualifying quarters through any of the following circumstances:

- Any quarter during which the alien works lawfully in the United States, as long as the alien received the minimum income established by the Social Security Administration during the entire quarter;<sup>[37]</sup>
- Being credited with quarters the alien spouse lawfully worked during the marriage;<sup>[38]</sup>
- Being credited with any quarters during which the alien was under 18 years of age and his or her parent lawfully worked;<sup>[39]</sup> or
- A combination of the above.<sup>[40]</sup>

Since 1978, quarters are based on total wages and self-employment income earned during the year, regardless of the months during the year the actual work was performed. An applicant can earn all four credits for the year in less time if the applicant earns the required income.

For example, in 2014, a person must have earned \$1,200 in covered earnings to get one Social Security or Medicare work credit and \$4,800 to get the maximum four credits for the year. A person who earns \$4,800 in 2014 earns all four credits for the year regardless of how long that year it took to earn the income.

An officer does not need to calculate an applicant's quarters. An applicant who claims he or she can be credited with sufficient quarters of coverage must submit official Social Security records to support the claim.<sup>[41]</sup>

## 2. Certain Self-Petitioning Immigrants

The following self-petitioning immigrants are exempt from the Affidavit of Support requirement:

- An alien who has an approved Petition for Amerasian, Widow(er), or Special Immigrant ([Form I-360](#)) as a self-petitioning widow or widower;<sup>[42]</sup>
- An alien who has an approved [Form I-360](#) as a battered spouse or child;<sup>[43]</sup> and
- An alien who has an approved [Form I-360](#) as a Violence Against Woman Act (VAWA) self-petitioner.<sup>[44]</sup>

## 3. Certain Children of U.S. Citizens

Under the Child Citizenship Act of 2000 (CCA),<sup>[45]</sup> children born abroad to U.S. citizens may automatically acquire U.S. citizenship upon admission to the United States or adjustment of status to that of an LPR.<sup>[46]</sup> If qualified for automatic acquisition of citizenship, the child is exempt from the Affidavit of Support requirement.<sup>[47]</sup>

The CCA has specific provisions for alien children adopted by U.S. citizens. An alien child adopted by U.S. citizens, such as an orphan or Hague Adoptee (IR-3 or IH-3 classifications), automatically acquires U.S.

citizenship if the child enters the United States prior to his or her 18th birthday.<sup>[48]</sup> Therefore, these children are exempt from the Affidavit of Support requirement.

However, this exception does not apply if:

- The child is “coming to be adopted” as an orphan or Hague Adoptee (IR-4 or IH-4 classification),<sup>[49]</sup> or
- The child is admitted as an immediate relative immigrant as the stepchild of a U.S. citizen.<sup>[50]</sup>

## 4. Adjustment Applications Filed Before December 19, 1997

Any applicant for adjustment of status who filed [Form I-485](#) prior to December 19, 1997, is exempt from the Affidavit of Support requirement.<sup>[51]</sup> The exemption is dependent on the filing date and applies even if USCIS conducts the interview or adjudicates the case after that date.

## 5. Other Categories of Applicants Not Required to File

The following are examples of categories of immigrants who are exempt from the Affidavit of Support Requirement:

- Diversity immigrants;<sup>[52]</sup>
- Special immigrant juveniles;<sup>[53]</sup>
- Applicants for registry;<sup>[54]</sup>
- Employment-based immigrants, unless the visa petition was filed by a relative or a relative’s firm;<sup>[55]</sup>
- Refugees and asylees at time of adjustment of status to lawful permanent resident status;<sup>[56]</sup>
- Aliens granted U nonimmigrant status;<sup>[57]</sup>
- Haitians adjusting status under the Help Haiti Act of 2010;<sup>[58]</sup> and
- Certain qualified aliens.<sup>[59]</sup>

For a full list of categories of immigrants who are exempt, see [Appendix: Applicability of INA 212\(a\)\(4\) to Family-Based Adjustment of Status Applications](#); [Appendix: Applicability of INA 212\(a\)\(4\) to Employment-Based Adjustment of Status Applications](#); [Appendix: Applicability of INA 212\(a\)\(4\) to Special Immigrant Adjustment of Status Applications](#); [Appendix: Applicability of INA 212\(a\)\(4\) to Refugee, Asylee, and Parolee Adjustment of Status Applications](#); and [Appendix: Applicability of INA 212\(a\)\(4\) to Other Applicants](#).

## D. Review of Affidavit of Support as a Factor

Aside from the requirements under INA 212(a)(4) to have a sufficient I-864, USCIS also reviews the I-864 as a factor in the totality of the circumstances.<sup>[60]</sup> A sufficient I-864 alone does not necessarily result in a finding that an alien is not likely at any time to become a public charge due to the statute’s requirement to consider the mandatory factors.<sup>[61]</sup> USCIS does not review a submitted Affidavit of Support (Form I-134) as a factor in the public charge inadmissibility determination.

When considering the Form I-864 in the totality of the circumstances for the public charge inadmissibility determination, USCIS reviews the likelihood that the sponsor would actually provide the 125 percent of the FPG financial support to the alien including, but not limited to, consideration of the following:

- The sponsor's annual income, assets and resources;
- The sponsor's relationship to the applicant, including whether the sponsor lives with the alien;
- The likelihood that the sponsor would actually provide the statutorily required amount of financial support to the alien; and
- Whether the sponsor has submitted an Affidavit of Support with respect to other aliens.

The more support provided, the greater the positive weight given in the totality of the circumstances.

## 1. Annual Income, Assets, and Resources

USCIS reviews the annual income of the sponsor providing support, including through employment, to determine if he or she is able to support the applicant.<sup>[62]</sup> Under the statute, the minimum income to establish a sufficient Form I-864 is generally 125 percent of the FPG based on the sponsor's household size plus the total number of sponsored immigrants and dependents supported by the sponsor.<sup>[63]</sup> A sufficient Affidavit of Support is a positive consideration in the totality of the circumstances. However, USCIS considers other relevant factors related to the sponsor's ability to support their household and the sponsored alien(s) even if his or her income meets the 125 percent of FPG threshold. An officer should give greater positive weight to a Form I-864 submitted by a sponsor who has greater income and assets available than the minimum required by the statute.

In addition, a person providing support may demonstrate an ability to provide for the applicant through assets and resources.<sup>[64]</sup> The person providing support must establish the location, ownership, value, and liquidity of each asset or resource including any liens or liabilities for each asset that is intended to support the applicant.

An officer should review the nature, amount, and availability of assets or resources when assessing this factor. Officers may review assets that are easily converted into cash within 12 months that may be used to support the person's household and the applicant. An officer should give greater positive weight to sizeable assets that are readily convertible to cash.<sup>[65]</sup>

### *Receipt of Public Benefits*

If the sponsor who executed Form I-864 has received public benefits, this may negatively impact the sponsor's ability to meet his or her support obligations, because it indicates that the sponsor may not be financially stable. Accordingly, if the evidence reflects that this sponsor received public benefits, even if the Form I-864 is sufficient, this decreases the positive weight of the factor in the totality of the circumstances.

### *Fee Waivers for Immigration Benefits*

If the sponsor who executed Form I-864 has received a fee waiver from USCIS for an immigration benefit, this may also negatively impact the sponsor's ability to meet his or her support obligations because it indicates the sponsor may not be financial stable. Accordingly, if the evidence reflects that this sponsor

received public benefits, even if the Form I-864 is sufficient, this decreases the positive weight of the factor in the totality of the circumstances.

## 2. Sponsor's Relationship to the Applicant

USCIS looks at how close of a relationship the sponsor has to the applicant, as close family members may be more likely to meet the support obligations and are given greater positive consideration in the totality of the circumstances. If the sponsor lives with the alien, a greater positive weight will be given to the factor in the totality of the circumstances consideration, as this could be indicative of the sponsor's ability to meet his or her sponsorship obligation.

## 3. Likelihood of Actual Support

Even if the Form I-864 is sufficient, USCIS nonetheless considers the sponsor's ability or willingness to meet his or her support obligation. To the extent that the initial evidence submitted by the sponsor is insufficient to make this determination, USCIS requests additional information from the sponsor or interviews the sponsor to determine whether the sponsor is willing and able to meet his or her support obligation. Lack of likelihood of actual support from the sponsor is given less positive weight in the totality of the circumstances consideration.

Officers may consider the factor less positively when the sponsor:

- Has received public benefits in the United States;
- Has had previous bankruptcies; or
- Has received a fee waiver for immigration benefits.

## 4. Sponsorship of Other Aliens

As part of the totality of the circumstances review, USCIS looks at whether the sponsor has submitted Form I-864 with respect to other applicants, as this may be indicative of the sponsor's willingness or ability to meet his or her obligations. This information is found on Form I-864 and an officer may also review any available systems to determine if the sponsor has submitted another Form I-864. Sponsoring multiple unrelated applicants may decrease the positive weight of the factor.

## E. Summary of Sponsor's Ability to Support

The following table provides a list of relevant considerations that may provide or more less positive weight to the Affidavit of Support factor.

### Sponsor's Ability to Support

More Positive Weight	Less Positive Weight
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More Positive Weight	Less Positive Weight
<ul style="list-style-type: none"> <li>• 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)</li> <li>• The applicant has a relationship with the sponsor</li> </ul>	<ul style="list-style-type: none"> <li>• Sponsor’s receipt of public benefits in the United States</li> <li>• Sponsor has a previous bankruptcy</li> <li>• Sponsor received a fee waiver for immigration benefits</li> <li>• Sponsor is sponsoring multiple applicants</li> </ul>

## F. Evidence

Officers review Form I-864 and any supporting documentation, as well as any available systems.

## Footnotes

[<sup>1</sup>] See [Pub. L. 104-208 \(PDF\)](#) (September 30, 1996).

[<sup>2</sup>] A sponsor may use [Form I-864EZ](#) if the sponsor is the [Form I-130](#) petitioner, there is only one beneficiary on the [Form I-130](#) petition, and the income the sponsor is using to qualify is based entirely on the sponsor’s salary or pension and is shown on one or more Forms W-2 provided by the sponsor’s employer(s) or former employer(s). Hereinafter, any references to the Form I-864 also include the Form I-864EZ.

[<sup>3</sup>] Filed on [Form I-864](#) or [Form I-864EZ](#).

[<sup>4</sup>] As required under [INA 212\(a\)\(4\)](#) and [INA 213A](#).

[<sup>5</sup>] See [INA 213A](#) and [8 CFR 213a](#).

[<sup>6</sup>] See [INA 212\(a\)\(4\)](#) and [INA 213A](#). See [Federal Poverty Guidelines](#).

[<sup>7</sup>] See [INA 213A](#). A sponsor who is on active duty (other than active duty for training) in the U.S. armed forces and who is petitioning for a spouse or child only has to demonstrate the means to maintain an annual income equal to at least 100 percent of the FPG.

[<sup>8</sup>] See [83 FR 51114, 51178 \(PDF\)](#) (Oct. 10, 2018) (proposed rule).

[<sup>9</sup>] However, the statute requires a finding of inadmissibility on the public charge ground if the alien is required to submit an Affidavit of Support and fails to do so. See [INA 212\(a\)\(4\)\(D\)](#).

[<sup>10</sup>] See [INA 212\(a\)\(4\)](#) and [INA 213A](#).

[<sup>11</sup>] See [INA 212\(a\)\(4\)](#) and [INA 213A](#).

[<sup>12</sup>] See [INA 212\(a\)\(4\)](#).

[^13] See [INA 201\(b\)\(2\)](#). Certain orphans that become U.S. citizens at time of adjustment of status under [INA 320](#) are exempt from filing [Form I-864](#).

[^14] See [INA 203\(a\)\(1\)](#).

[^15] See [INA 203\(a\)\(2\)](#).

[^16] See [INA 203\(a\)\(3\)](#).

[^17] See [INA 203\(a\)\(4\)](#).

[^18] Even though an Affidavit of Support is not required, an officer still makes a public charge determination when assessing the applicant's admissibility, unless the applicant is exempt from the public charge ground of inadmissibility.

[^19] For employment-based cases, an Affidavit of Support is required only if the intending immigrant will work for a relative who is eligible to file a Petition for Alien Relative ([Form I-130](#)), on behalf of the intending immigrant. For purposes of the Affidavit of Support, a relative is defined as a U.S. citizen or LPR who is the intending immigrant's spouse, parent, child, adult son or daughter; or a U.S. citizen who is the intending immigrant's brother or sister. See [8 CFR 213a.1](#).

[^20] An entity includes any petitioning for-profit entity such as a business or corporation.

[^21] Owning 5 percent or more of an entity constitutes a significant ownership interest. See [8 CFR 213a.1](#).

[^22] This includes a relative who is either a "K-1" fiancé(e), a "K-3" spouse, or a "K-2" or "K-4" child of fiancé(e) or spouse. See [8 CFR 213a.2\(a\)\(2\)\(i\)\(A\)](#).

[^23] See [8 CFR 213a.2\(a\)\(2\)\(i\)\(A\)](#). K nonimmigrants include the fiancé(e)s of U.S. citizens and their accompanying children, alien spouse of a U.S. citizen and their accompanying minor children, and step-children of U.S. citizens. A child has to be under 21 years of age. See [INA 101\(b\)](#).

[^24] See [Matter of Sesay \(PDF\)](#), 25 I&N Dec. 431 (BIA 2011).

[^25] Such as federal income tax return transcripts, W-2, and employment verification.

[^26] Certain qualified aliens as described in [8 U.S.C. 1641\(c\)](#). See [8 CFR 212.23\(b\)](#).

[^27] As outlined in [INA 212\(a\)\(4\)\(E\)](#).

[^28] Under [INA 101\(a\)\(15\)\(U\)](#).

[^29] As described in [8 U.S.C. 1641\(c\)](#).

[^30] See [INA 203\(b\)](#).

[^31] Under [INA 213A](#). See [8 CFR 213a](#).

[^32] As described in [INA 213A](#) and [8 CFR 213a](#).

[^33] See Chapter 3, Applicability [[8 USCIS-PM G.3](#)]; [Appendix: Applicability of INA 212\(a\)\(4\) to Family-Based Adjustment of Status Applications](#); [Appendix: Applicability of INA 212\(a\)\(4\) to Employment-Based Adjustment of Status Applications](#); [Appendix: Applicability of INA 212\(a\)\(4\) to Special Immigrant](#)

[Adjustment of Status Applications; Appendix: Applicability of INA 212\(a\)\(4\) to Refugee, Asylee, and Parolee Adjustment of Status Applications](#); and [Appendix: Applicability of INA 212\(a\)\(4\) to Other Applicants](#).

[^ 34] See [8 CFR 212.23](#) for exemptions from public charge inadmissibility.

[^ 35] Qualifying quarter, as defined under title II of the Social Security Act, is specifically tied to earnings. For more information, see [SSA.gov](#).

[^ 36] See [42 U.S.C. 413](#).

[^ 37] Credits are based on total wages and self-employment income during the year. For more information, see [SSA.gov](#).

[^ 38] See [INA 213A\(a\)\(3\)\(B\)](#). An alien cannot claim credit for any quarter worked by a spouse in which the spouse was receiving federal means-tested public benefits.

[^ 39] See [INA 213A\(a\)\(3\)\(B\)](#). An alien cannot claim credit for any quarter worked by a parent in which the parent was receiving federal means-tested public benefits.

[^ 40] However, quarters cannot be counted more than once even if there are multiple circumstances that apply to make a quarter qualifying.

[^ 41] See [8 CFR 213a.2\(a\)\(2\)\(ii\)\(C\)](#).

[^ 42] See [INA 212\(a\)\(4\)\(C\)](#).

[^ 43] See [INA 212\(a\)\(4\)\(C\)](#). See [INA 212\(a\)\(4\)\(E\)\(i\)](#). See Section 804 of the Violence Against Women Reauthorization Act of 2013 (VAWA 2013), [Pub. L. 113-4 \(PDF\)](#), 127 Stat. 54, 111 (March 7, 2013).

[^ 44] See [INA 212\(a\)\(4\)\(C\)](#). See [INA 212\(a\)\(4\)\(E\)\(i\)](#). See Section 804 of the Violence Against Women Reauthorization Act of 2013, [Pub. L. 113-4](#), 127 Stat. 54, 111 (March 7, 2013).

[^ 45] See [Pub. L. 106-395 \(PDF\)](#) (October 30, 2000). See [INA 320](#).

[^ 46] See [INA 320](#). See Volume 12, Citizenship and Naturalization, Part H, Children of U.S. Citizens, Chapter 4, Automatic Acquisition of Citizenship after Birth (INA 320) [[12 USCIS-PM H.4](#)].

[^ 47] See [INA 320](#). For more on children acquiring citizenship under the CCA, see Volume 12, Citizenship and Naturalization, Part H, Children of U.S. Citizens, Chapter 4, Automatic Acquisition of Citizenship after Birth (INA 320) [[12 USCIS-PM H.4](#)].

[^ 48] See [Pub. L. 106-395 \(PDF\)](#) (October 30, 2000).

[^ 49] An IR-4 or IH-4 immigrant becomes a citizen under [INA 320](#) only when the adoption is finalized after admission and all eligibility requirements are met. See [Before Your Child Immigrates to the United States](#).

[^ 50] The stepchild of a U.S. citizen does not acquire citizenship under [INA 320](#). See *Acevedo v. Lynch*, --- F.3d ---, 2015 WL 4999292 (9th Cir. 2015). See [Matter of Guzman-Gomez \(PDF\)](#), 24 I&N Dec. 824 (BIA 2009).

[^ 51] See [8 CFR 213a.2\(a\)\(2\)\(i\)](#) and [8 CFR 213a.2\(a\)\(2\)\(ii\)\(B\)](#). See Illegal Immigration Reform and Immigrant Responsibility Act, [Pub. L. 104-208 \(PDF\)](#) (September 30, 1996).

[^52] A winner of the diversity visa lottery has no petitioner. A diversity visa immigrant does not need to file an Affidavit of Support but is still subject to the public charge ground of inadmissibility.

[^53] See [INA 245\(h\)](#).

[^54] Registry is a section of immigration law that enables certain aliens who have been present in the United States since January 1, 1972, the ability to apply for lawful permanent residence even if currently in the United States unlawfully. See [INA 249](#) and [8 CFR 249](#).

[^55] See [INA 212\(a\)\(4\)](#). This exemption also includes Afghan and Iraqi Interpreters who received a special immigrant visa by filing a petition under [INA 203\(b\)\(4\)](#).

[^56] See [INA 209\(c\)](#).

[^57] See [INA 101\(a\)\(15\)\(U\)](#), and [INA 212\(a\)\(4\)\(E\)\(ii\)](#). See Section 804 of the Violence Against Women Reauthorization Act of 2013, [Pub. L. 113-4 \(PDF\)](#) (March 7, 2013).

[^58] See Help Haitian Adoptees Immediately to Integrate Act of 2010 (Help HAITI Act), [Pub. L. 111-293 \(PDF\)](#) (December 9, 2010).

[^59] See [8 U.S.C. 1641\(c\)](#). See [INA 212\(a\)\(4\)\(E\)\(iii\)](#). See Section 804 of the Violence Against Women Reauthorization Act of 2013, [Pub. L. 113-4 \(PDF\)](#), 127 Stat. 54, 111 (March 7, 2013).

[^60] See [INA 212\(a\)\(4\)](#) and [8 CFR 212.22\(b\)\(7\)](#).

[^61] For more information, see Chapter 5, Factors [[8 USCIS-PM G.5](#)].

[^62] See [8 CFR 212.22\(b\)\(7\)](#). See Chapter 9, Assets, Resources, and Financial Status, Section A, Standard, Subsection 1, Income and Percentage of Federal Poverty Guidelines [[8 USCIS-PM G.9\(A\)\(1\)](#)].

[^63] See [INA 213A](#). A sponsor who is on active duty (other than active duty for training) in the U.S. armed forces and who is petitioning for a spouse or child only has to demonstrate the means to maintain an annual income equal to at least 100 percent of the FPG.

[^64] See Chapter 9, Assets, Resources and Financial Status [[8 USCIS-PM G.9](#)].

[^65] See Chapter 9, Assets, Resources and Financial Status [[8 USCIS-PM G.9](#)].

Current as of February 10, 2021

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