

Who is Subject to Public Charge?

This resource is designed to help advocates quickly identify whether public charge inadmissibility applies to an individual. Many green card applicants are exempt from public charge review by law. If public charge applies, that does not mean the application will be denied. It means immigration officers consider public charge as part of the application review. The charts identify the categories of green card applicants generally subject to public charge and categories that are excluded or exempt. These charts only reflect whether public charge inadmissibility may apply, not whether someone is eligible for public benefits or whether their benefits use will be considered. This resource is for informational purposes only and should not be considered legal advice.

NOTE: The removal of the exemption list in the 2026 Final Rule does not eliminate or change the existing statutory exemptions. The August 2026 USCIS guidance on public charge includes a list of exemptions; the only category removed from the chart of categories subject to public charge was “People born in the U.S. to foreign diplomatic parents.”

Public Charge Applies

The categories listed below are people applying for green cards. For these groups, the public charge test may be triggered when the person applies for a green card.

Family-Based	
Category	Who is included
<i>Relatives of U.S. citizens</i>	
Immediate relatives	Spouses, children (unmarried, under 21), parents of adult U.S. citizens
Preference relatives	Unmarried sons/daughters (21+) and their children Married sons/daughters and their spouses and children Brothers/sisters of adult U.S. citizens and their spouses and children
Fiancé(e)s, widows & widowers	K-1 fiancé(e)s; widows/widowers of U.S. citizens
<i>Relatives of LPRs</i>	
LPR family members	Spouses, children, unmarried sons/daughters
<i>Other family-based</i>	
Amerasians (INA § 204(f))	Born on or after 12/31/50 and before 10/22/82 (based on preference category; see chart below for Amerasians at admission)



Employment-Based	
EB-1 — Priority workers	People of extraordinary ability, outstanding professors/researchers, multinational executives and managers
EB-2 — Advanced degree / exceptional ability	Professionals with advanced degrees; noncitizens of exceptional ability in sciences, arts, or business
EB-3 — Skilled workers & professionals	Skilled workers (2+ years training/experience), professionals, other workers (unskilled)
EB-5 — Investors	Immigrant investors who create or preserve jobs in the U.S.
Special Immigrants	
Religious workers	Ministers and workers in religious vocations or occupations
U.S. government employees abroad	Certain current or former employees of U.S. government abroad and their families
Panama Canal Zone employees	Certain employees of the Panama Canal Company or Canal Zone government
Foreign medical school graduates	Graduates licensed to practice medicine in the U.S. as of 1/9/78
Retired international organization employees	Retired officers or employees of a qualifying international organization and their family members
U.S. armed forces personnel	Certain noncitizens who served honorably in the U.S. armed forces
International broadcasters	Noncitizens employed by qualifying broadcasting entities



Other Categories	
Displaced diplomats	Diplomats or high-ranking officials unable to return to their home country
Born under diplomatic status	People born in the U.S. to foreign diplomatic parents Note: USCIS has removed this category from its forthcoming policy guidance without explanation.
Diversity visa (DV) immigrants	Selected through the DV lottery
Certain pre-1982 entrants	People who entered the U.S. before 1/1/82 and meet certain residency criteria
S visa (witness or informant)	Noncitizens who assist law enforcement as witnesses/informants in criminal or terrorism cases

Public Charge Does Not Apply

Public charge inadmissibility does not apply to the following applicants for visas, admission, or adjustment of status. Being exempt means the public charge determination is not part of the application review. **Remember:** public charge determinations generally occur during a *green card application review*, not at other points in an immigration pathway.

NOTE: Although the 2026 Final Rule rescinded the 2022 regulatory framework that listed public charge exemptions, the groups below remain exempt by statute. USCIS has stated that to remain exempt from public charge when applying for a green card, applicants must apply for LPR status based on their exempt immigration category. Filing for a green card through a different category, such as a family relationship, may result in public charge applying.

Humanitarian	
Category	Who is included
Asylees & refugees	People seeking asylum and people granted asylum applying for green cards; people seeking refugee status or admitted as refugees applying for green cards
TPS applicants & re-registrants	Applicants for or holders of Temporary Protected Status
T visa holders	Survivors of severe human trafficking; includes people applying for T nonimmigrant status and people granted T status applying for green cards under INA 245(l)
U visa holders	Victims of qualifying criminal activity helpful to law enforcement who are petitioning for U nonimmigrant status, or who have U nonimmigrant status and are applying for green cards
VAWA self-petitioners	Survivors of abuse by a U.S. citizen or LPR spouse, parent, or child, self-petitioning under VAWA (INA 212(a)(4)(E)(i)) or applying for green cards
Battered qualified immigrants	Noncitizens battered or subjected to extreme cruelty by a U.S. family member; must be “qualified” under PRWORA (INA 212(a)(4)(E)(iii))
Special immigrant juveniles (SIJs)	Children petitioning for SIJ classification because they have been abused, abandoned, or neglected by a parent; or children with approved SIJ petitions applying for green cards under INA 245(h)



Lautenberg parolees	Parolees from the Soviet Union, Eastern Europe, and Southeast Asia under Pub. L. 101-167 § 599E
Polish & Hungarian parolees	Paroled into the U.S. between 11/1/89 and 12/31/91 under IIRIRA § 646(b)
Country / Regional Programs	
Cuban Adjustment Act	Applicants for green cards under the Cuban Adjustment Act of 1966 (Pub. L. 89-732)
Cuban & Haitian entrants	When they apply for green cards under Section 202 of IRCA (Pub. L. 99-603)
Nicaraguans & Central Americans (NACARA)	Applying for green cards under Sections 202(a) and 203 of the Nicaraguan Adjustment and Central American Relief Act (Pub. L. 105-100)
Haitians (HRIFA)	Applying for green cards under Section 902 of the Haitian Refugee Immigration Fairness Act of 1998 (Pub. L. 105-277)
Liberians (LRIF)	Applying for green cards under the Liberian Refugee Immigration Fairness law (NDAA 2020 § 7611; extended by Pub. L. 116-260 § 901)
Certain Vietnamese, Cambodians & Laotians	Nationals of Vietnam, Cambodia, and Laos under the Foreign Operations Appropriations Act of 2001 (Pub. L. 106-429 § 586; 8 CFR 245.21)
Certain Syrian nationals	Specific Syrian nationals covered under Pub. L. 106-378 (10/27/00)
Military & Service-Related	
Surviving family of military members	Surviving spouses, children, and parents of U.S. armed forces members who died during active service; applying for green cards based on posthumous citizenship (NDAA 2004 § 703; Pub. L. 108-136)
Afghan & Iraqi allies (Special Immigrant Visas)	Afghan and Iraqi interpreters or nationals employed by or on behalf of the U.S. government (NDAA 2006 § 1059; NDAA 2008 § 1244(g); Pub. L. 111-8 § 602(b))
Other Categories	
Amerasians at admission only	Children born in certain Southeast Asian countries to a U.S. citizen father under the Foreign Operations Appropriations Act of 1988 (Pub. L. 100-202 § 584)



Registry applicants	Noncitizens continuously present in the U.S. since before 1/1/72, applying for green cards through registry (INA 249)
Diplomatic, Consular & Tribal	
Certain foreign government officials	Certain nonimmigrant ambassadors, ministers, diplomats, consular officers, and immediate family members in official capacity (INA 101(a)(15)(A)(i–ii); (G)(i–iv))
American Indians born in Canada	Noncitizen American Indians with at least 50% American Indian blood born in Canada; right of free passage under Jay Treaty principles (INA 289)
Texas Band of Kickapoo Indians	Members of the Texas Band of Kickapoo Indians or the Kickapoo Tribe of Oklahoma (Pub. L. 97-429)

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