

Housing Access for Immigrant Households

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The first Trump Administration, from 2016 to 2020, used several federal agencies including HUD to sow distrust among immigrant communities and hinder immigrant families from accessing safe, decent, and affordable housing. While the second Trump Administration may scapegoat immigrant communities as the cause for the affordable housing crisis, research has shown that [there is no correlation between increases in housing costs and increases in the number of foreign-born workers: https://bit.ly/3Ry6fLF](https://bit.ly/3Ry6fLF). In fact, immigrants play a crucial role in the creation of affordable housing, as foreign-born workers make up about one-fourth of the construction workforce, and this workforce is critical in efforts to increase the supply of housing. For many generations, immigrants have also helped to revitalize and stabilize communities throughout the country by spurring economic growth, preserving important industries, and increasing local tax bases.

NLIHC opposes policies that deter eligible immigrant families from seeking housing benefits, and we oppose proposals that force immigrant families currently receiving housing benefits to forego that assistance, or face family separation or eviction. Housing advocacy must be inclusive of all our neighbors—from native to newcomer.

Immigrant rights organizations and housing advocates must prepare themselves for similar threats to immigrant housing access in the second Trump Administration beginning in January 2025. For the most recent information on this topic, please refer to the Keep Families Together Campaign at www.keep-families-together.org and to the Protecting Immigrant Families Coalition at www.pifcoalition.org.

Immigrant Eligibility in Federally Subsidized Housing

There are two main sources of immigration status restrictions on eligibility for federal housing and homelessness programs: Section 214 of the “Housing and Community Development Act of 1980” (Section 214) and title IV of the “Personal Responsibility and Work Opportunity Reconciliation Act of 1996” (PRWORA). Tenants of Public Housing and Section 8 programs must meet immigration status eligibility requirements established under Section 214 of the “Housing and Community Development Act”.

Residents of certain federally subsidized units are subject to immigration status restrictions under Section 214 of the “Housing and Community Development Act of 1980” (Section 214). HUD programs under Section 214 include public housing, Section 8 Housing Choice Vouchers, Section 8 Project-Based Rental Assistance (PBRA), Section 235 Home Loan Program, Section 236 Rental Assistance Program, and the Rent Supplement Program. Section 214 also governs the Section 542 Rural Development Voucher program, Section 502 Guaranteed Rural Housing Loans, the Section 504 Home Repair program, and Section 521 Rental Assistance for the Section 515 and Section 514/516 programs operated by the U.S. Department of Agriculture’s (USDA’s) Rural Housing Service (RHS).

Under Section 214, individuals with the following immigration status are eligible for federal housing assistance programs: U.S. citizens and nationals, lawful permanent residents (people with “green cards”), “Violence Against Women Act” (VAWA) self-petitioners, asylees and refugees, parolees, persons granted withholding of removal, victims of trafficking, individuals residing in the U.S. under COFA, and immigrants admitted for lawful temporary residence under the “Immigration Reform and Control Act of 1986.”

Being ineligible for housing assistance is not equivalent to being undocumented. Immigrants with student visas, Temporary Protected Status, U nonimmigrant status, and other statuses are also not eligible for federal housing subsidies.

Only some immigrants eligible for this federal housing assistance would also be subject to the “public charge” test, as discussed below: parolees, immigrants granted withholding of removal, and those lawfully admitted pursuant to Section 141 of the Compacts of Free Association with the Marshall Islands, the Federated States of Micronesia, and Palau (COFA). Since family members’ use of benefits is not counted against an applicant, individuals subject to public charge living in a mixed-status immigrant household can continue living with family members receiving housing assistance without harming their own immigration case. In 2024, President Biden signed the “Compact Impact Fairness Act” as part of the Consolidated Appropriations Act of 2024, which made citizens of Compact of Free Association (COFA; those from the Marshall Islands, Micronesia, and Palau) eligible for all federal public benefits—removing the waiting period. Congress declared that COFA migrants are “qualified” immigrants for all federal public benefits programs and removed restrictions on their eligibility for federal public benefits.

Changes to the Definition of “Public Charge”

BACKGROUND

The “public charge” test is a long-standing component of U.S. immigration policy used to determine if an individual is likely to depend on government benefits as their main source of support. If someone is deemed likely to become a “public charge,” the federal government can deny admission to the U.S. or deny an application for lawful permanent resident status (a “green card”). Permanent residents applying

to become U.S. citizens are not subject to the public charge test. The current policy under the May 26, 1999, [*Field Guidance on Deportability and Inadmissibility on Public Charge Grounds*](https://bit.ly/4IMFCjQ): <https://bit.ly/4IMFCjQ> defined “public charge” as a noncitizen who is “primarily dependent on the government for subsistence, as demonstrated by either the receipt of public cash assistance for income maintenance or institutionalization for long-term care at government expense.”

When making public charge determinations, immigration officials look at the use of federal, state, or Tribal cash assistance, such as Temporary Assistance for Needy Families (TANF) and Supplemental Security Income (SSI), in addition to the individual’s circumstances, including age, income, education and skills, health, family size, and support from friends or family in the U.S. All these factors are considered as part of the public charge test so that positive factors can help overcome negative factors.

Decisions about applications for admission or lawful permanent resident status inside the U.S. are made by the U.S. Citizenship and Immigration Services (USCIS) within the Department of Homeland Security (DHS); applications for admission or green cards outside the U.S. at embassies or consular offices abroad are reviewed by the Department of State. Each agency has its own regulations, but the Administration has worked to align the policies. Refugees, asylees, survivors of trafficking and other serious crimes, certain people who have been paroled into the U.S., self-petitioners under VAWA, special immigrant juveniles, and several other categories of noncitizens are exempt from the public charge rule.

TRUMP ADMINISTRATION’S 2018 “PUBLIC CHARGE” RULE CHANGES

The first Trump Administration proposed expanding the list of benefits considered as part of the public charge test, which would make it

easier for immigration officials to deny entry or permanent resident status to low-income immigrants because they use, or might in the future use, vital health, nutrition (specifically, the Supplemental Nutrition Assistance Program, SNAP), or housing assistance programs (specifically, public housing, Housing Choice Vouchers, and Project-Based Rental Assistance (PBRA)). While the Trump Administration sought to implement its rule on “[Inadmissibility on Public Charge Grounds](https://bit.ly/42ZX0dC)”: <https://bit.ly/42ZX0dC> (Public Charge Rule) in October 2018 through DHS, advocates pushed back and submitted more than 266,000 public comments during the 60-day comment period. Another federal agency, the Department of State (DOS) also published an interim final rule aligning DOS’s public charge standards in cases decided at U.S. consulates and embassies abroad to those of DHS.

The final “public charge” rules were set to go into effect on October 15, 2019, but several courts blocked the rule from implementation until the lawsuits were settled. Additionally, state, county, and city governments joined nonprofits and individuals in suing the Trump Administration in a total of nine cases. Three courts ordered national injunctions, preventing DHS from implementing the rule until a final decision were made. These orders were eventually lifted by the Supreme Court and USCIS began implementing the rule on February 24, 2020.

BIDEN ADMINISTRATION’S 2021 “PUBLIC CHARGE” RULE CHANGES

Advocates worked nationwide to pressure the Biden Administration to expand access to housing for immigrant households, and as a result, the Biden Administration reversed the previous Administration’s harmful changes to the “public charge” rule. President Joe Biden signed three Executive Orders (EOs) on immigration reform on February 2, 2021, setting into motion changes to reverse the previous Administration’s harmful public charge rule. Executive

Order 14012 “[Restoring Faith in Our Legal Immigration Systems and Strengthening Integration and Inclusion Efforts for New Americans 2021](https://bit.ly/3S562Qh)”: <https://bit.ly/3S562Qh>, the Supreme Court agreed to dismiss litigation on the previous Administration’s Public Charge Rule at the request of [announced: https://bit.ly/3S562Qh](https://bit.ly/3S562Qh) it would no longer implement the 2019 Trump public charge rule the Biden Administration. Immediately, Biden’s DHS statement that it and USCIS will follow the policy in the [1999 Interim Field Guidance: https://bit.ly/3EDhRKs](https://bit.ly/3EDhRKs), the policy that was in place before the 2019 rule. Under this policy, DHS will not consider a person’s receipt of Medicaid, public housing, or Supplemental Nutrition Assistance Program (SNAP) benefits as part of the public charge inadmissibility determination. [announced: https://bit.ly/3EDhRKs](https://bit.ly/3EDhRKs) it would no longer implement the 2019 Trump public charge rule, and DHS [vacated: https://bit.ly/4iw8REM](https://bit.ly/4iw8REM) the harmful public charge rule amendments on March 15, 2021. DHS announced in a [statement: https://bit.ly/3S4KTFX](https://bit.ly/3S4KTFX) that it and USCIS will follow the policy in the [1999 Interim Field Guidance: https://bit.ly/3EDhRKs](https://bit.ly/3EDhRKs), the policy that was in place before the 2019 rule. Under this policy, DHS will not consider a person’s receipt of Medicaid, public housing, or Supplemental Nutrition Assistance Program (SNAP) benefits as part of the public charge inadmissibility determination.

DHS [issued a final rule: https://public-inspection.federalregister.gov/2022-18867.pdf](https://public-inspection.federalregister.gov/2022-18867.pdf) on the “public charge” regulation on September 8, 2022, adding critical protections to immigrant families’ access to social safety net programs, including housing. The final rule clarifies that several health and social services are not considered in a public charge determination. The final rule took effect on December 23, 2022.

Additionally, DOS under the Biden Administration issued a [final “public charge” regulation: https://bit.ly/4iu3yG0](https://bit.ly/4iu3yG0) confirming the agency will not finalize the Trump Administration’s harmful

2019 interim final rule. The DOS rule, effective as of October 5, 2023, aligns with the U.S. Department of Homeland Security's final public charge rule, which clarified that several health and social services are not to be considered in a public charge determination.

As of December 2024, immigrant families' access to housing benefits is no longer at risk from the harms created under the first Trump Administration. Specifically, the "public charge" rule, which evaluates whether an individual applying for seeking admission into the U.S., applying for a green card, or an extension of their non-immigrant status is likely to rely on the government for assistance if they obtain lawful permanent residence, has been amended to clarify that housing assistance – such as assistance through public housing, Housing Choice Vouchers, and Project-Based Rental Assistance, among other programs – is not considered in an individuals' application for permanent residency. In other words, these housing benefits are not considered in the "public charge" test.

LEGISLATIVE ACTION ON "PUBLIC CHARGE" DURING THE BIDEN ADMINISTRATION

In 2023, some members of Congress sought to reverse the Biden Administration's "public charge" rule, which was finalized and went into effect in 2022, but advocates took swift action and the legislation failed. On May 17, 2023, the U.S. Senate passed [S.J.Res.18: https://bit.ly/4iqhukd](https://bit.ly/4iqhukd), a resolution introduced by Senator Roger Marshall (R-KS) to reverse the Biden Administration's "public charge" rule. NLIHC, along with the Protecting Immigrant Families Coalition (PIF), urged senators to vote against the resolution. The resolution passed on a 50-47 vote, with two Democratic Senators – Senators Joe Manchin (D-WV) and Jon Tester (D-MT) voting with the Republican majority to overturn the Biden rule. The resolution did not come up for a vote in the House of Representatives, and President Biden announced he would veto the

resolution and stand firm with immigrant families if the proposal passed the House.

After the resolution passed the Senate, advocates led by PIF sent [a letter: https://docs.google.com/document/d/1O78f9IPzD5UdpuoSOULSrdmoyxl1EqxcBfUa19eKoU/edit?tab=t.0](https://docs.google.com/document/d/1O78f9IPzD5UdpuoSOULSrdmoyxl1EqxcBfUa19eKoU/edit?tab=t.0) to House Minority Leader Hakeem Jeffries (D-NY) urging Democratic members of the U.S. House of Representatives to vote against a resolution to overturn the Biden Administration's "public charge" rule. NLIHC joined the letter, along with over 550 organizations. The House did not bring the resolution to a vote.

On September 27, 2023, the House passed the "Department of Homeland Security Appropriations Act" ([H.R.4367: https://www.congress.gov/bill/118th-congress/house-bill/4367](https://www.congress.gov/bill/118th-congress/house-bill/4367)) with an amendment introduced by Representative Andy Biggs (R-AZ) that would defund implementation of the Biden Administration's "public charge" rule. Because the amendment passed in the full House by a voice vote, there is no record of which members supported its passage. The amendment was not included in the FY24 appropriations bill. However, immigrant access advocates will need to be on guard for similar amendments that may attempt to be added to any spending agreement.

PROTECTING IMMIGRANT FAMILIES

Led by the National Immigration Law Center, the [Protecting Immigrant Families \(PIF\) Coalition: https://pifcoalition.org/](https://pifcoalition.org/) organized opposition to the Public Charge Rule and has worked to ensure that immigrant communities facing attacks know their rights. Since the first Trump Administration, the PIF Coalition has grown even stronger, with over 750 member organizations.

Once the harmful 2019 public charge rule was removed, PIF advocated for a public charge policy that prevents abuses like those under the Trump Administration and secures access to programs that help immigrant families live healthy

and fulfilling lives. On April 25, 2022, [NLIHC and the PIF coalition submitted a comment on the Biden Administration's public charge proposal signed by 1,070 organizations: https://bit.ly/3Rx-tWDS](https://bit.ly/3Rx-tWDS). Importantly, the comment's signatories included a diverse set of national organizations and organizations from every state and Washington, D.C., signaling to the Administration that they could count on a broad base of support in communicating the final public charge regulation to immigrant communities.

PIF consistently kept advocates updated with the latest research on the impacts of the Public Charge Rule, updates on litigation, fact sheets and "Know Your Rights!" messages for community members, and guidance and additional resources for immigration lawyers. PIF members were involved in legal battles against the first Trump Administration's changes to the Public Charge Rule and were key leaders during the public comment campaign.

DHS [issued a final rule: https://public-inspection.federalregister.gov/2022-18867.pdf](https://public-inspection.federalregister.gov/2022-18867.pdf) on the "public charge" regulation on September 8, 2022, adding critical protections to immigrant families' access to social safety net programs, including housing. The final rule clarified that several health and social services are not considered in a public charge determination. The final rule took effect on December 23, 2022.

Additionally, the Department of State (DOS) issued a [final "public charge" regulation: https://bit.ly/4iu3yG0](https://bit.ly/4iu3yG0) confirming the agency will not finalize the Trump Administration's harmful 2019 interim final rule. The DOS rule, effective as of October 5, 2023, aligns with the U.S. Department of Homeland Security's final public charge rule, which clarified that several health and social services are not to be considered in a public charge determination.

Mixed-Status Families in Federally Subsidized Housing

BACKGROUND

Families with at least one U.S. citizen or eligible immigrant are allowed to live in a HUD-subsidized housing unit. These families are referred to as "mixed-status" and receive prorated assistance so that the subsidy amount is decreased to only cover family members with eligible immigration status. Family members applying for assistance must have their immigration status verified.

TRUMP ADMINISTRATION'S 2019 PROPOSED MIXED-STATUS FAMILIES RULE

On May 10, 2019, [HUD released a proposed rule: https://www.federalregister.gov/documents/2019/05/10/2019-09566/housing-and-community-development-act-of-1980-verification-of-eligible-status](https://www.federalregister.gov/documents/2019/05/10/2019-09566/housing-and-community-development-act-of-1980-verification-of-eligible-status) that would have further restricted eligibility for federal housing assistance based on immigration status by prohibiting mixed-status families from living in subsidized units subject to Section 214. The rule would have forced impacted households to choose between separating as a family to keep their subsidy or face eviction and potentially homelessness. According to [HUD's own analysis](#), the proposed rule would have effectively evicted 25,000 immigrant families from their homes, including 55,000 children eligible for housing assistance. In fact, two-thirds of people in mixed-status families were U.S. citizens, most of them children, at the time HUD released its proposal.

The final rule was never published under the first Trump Administration. On April 2, 2021, the Biden Administration published a [notice in the Federal Register: https://bit.ly/4iyFVwa](https://bit.ly/4iyFVwa) announcing its intention to withdraw the Trump Administration's proposed rule.

The first Trump Administration pursued a similar mixed-status families rule within USDA's Rural Housing Service. The proposed rule, "[Implementation of the Multi-Family Housing U.S. Citizenship Requirements](https://bit.ly/4ivdkal)," aimed to prohibit mixed-immigration status families from receiving housing assistance from some RHS programs covered by Section 214 of the "Housing and Community Development Act of 1980." This included the Rural Development (RD) voucher program (Section 521) and rental assistance for the Section 515 and Section 514/516 programs. The proposed RHS rule would have led to families splitting up, forgoing assistance, or being evicted from their homes. The rule was never published in the *Federal Register* and was withdrawn via a [notice in the Federal Register](https://bit.ly/3Gjy1cC): <https://bit.ly/3Gjy1cC> by the Biden Administration.

The withdrawal of the "mixed status" rule means that "mixed status" families can pursue housing assistance without fear of being separated or evicted.

KEEP FAMILIES TOGETHER CAMPAIGN

In response to the proposed Mixed-Status rule, NLIHC, the National Housing Law Project (NHLPP), and other partners launched the Keep Families Together campaign to mobilize opposition. During the public comment period, individuals and organizations submitted over 30,450 comments; the previous time a HUD proposal garnered significant public attention resulted in just over 1,000 public comments. An NHLPP analysis of these comments found that more than 95% of the comments opposed the rule. An archived summary of actions taken during the Trump Administration can be found on the Keep Families Together website at www.keep-families-together.org

Forecast for 2025

President Trump is expected to pursue a number of proposals that would harm immigrant families and communities. During his 2024 campaign, President Trump proposed to deport millions of undocumented people. Advocates also warn that President Trump could try to advance the harmful policies he proposed during his first term, including changing the "public charge" rule and attempting to force mixed-status immigrant families to either break up or face eviction from HUD housing.

NLIHC will continue to work with partners in immigration to oppose these policies. Advocates should build strong relationships with, and remain in contact with, local immigrant rights organizations in defending against the many attacks on immigrant communities.

There are few legislative opportunities to expand resources to immigrant families and combat the chilling effects from the previous Trump Administration's anti-immigrant regulations. In the 118th Congress, Representative Pramila Jayapal (D-WA) introduced [H.R.4170](https://bit.ly/3S2EbAj) [H.R.4170: https://bit.ly/3S2EbAj](https://bit.ly/3S2EbAj), "Lifting Immigrant Families Through Benefits Access Restoration Act of 2021," or the "LIFT the BAR Act," with 100 original cosponsors. Senator Mazie Hirono (D-HI) introduced a companion bill in the Senate, [S.2038: https://bit.ly/4iHtDSg](https://bit.ly/4iHtDSg), with 11 original cosponsors. The "LIFT the BAR Act" would restore access to public programs for lawfully present immigrants by removing the five-year waiting period and other restrictions to accessing federal public benefits.

The "bar" represents harmful barriers created by the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996" (PRWORA). PRWORA created an arbitrary five-year waiting period for immigrants to access vital healthcare and social service programs, including Medicaid, the Children's Health Insurance Program (CHIP), the Supplemental

Nutrition Assistance Program (SNAP), Temporary Assistance for Needy Families (TANF), Supplemental Security Income (SSI), and certain housing assistance programs, including public housing, Housing Choice Vouchers, and Section 8 Project-Based Rental Assistance. These barriers continue to stoke fear and confusion among immigrant communities, reducing participation in essential social safety net programs. NLIHC endorsed the LIFT the BAR Act along with [nearly 200 organizations: https://bit.ly/4IMGZiF](https://bit.ly/4IMGZiF), and signed a [national letter: https://bit.ly/4iQ2QmR](https://bit.ly/4iQ2QmR) led by PIF in support of the bill.

How Advocates Can Take Action

Advocates should speak to lawmakers with the message that:

- Blaming immigrant families will not fix the long waitlist for housing assistance or the affordable housing crisis. Congress should instead make significant new investments in affordable housing resources to ensure that every family, regardless of immigration status, who is eligible for HUD assistance has access to one of the most basic of human rights: a safe, accessible, and affordable place to call home.
- The Trump Administration's rules directly impacted thousands of immigrant families' access to housing and continues to have a chilling effect on children's ability to receive essential health, food, and housing federal assistance that lingers to this day. This country is already facing an affordable housing crisis and limiting access for more people will only exacerbate the problem.
- Immigrants play a critical role in supporting local economies, including construction and trades which help build more affordable housing. By limiting immigrants' ability to work and seek vital health resources, elected officials scapegoat immigrant communities for the affordable housing crisis. In reality,

Congress must invest in affordable housing to meet the housing needs of all people.

- Human needs do not change based on immigration status. It is simply impractical, dangerous, and inhumane to only allow citizens to access critical, lifesaving benefits such as housing assistance. Members of Congress should work to restrict or halt the implementation of these harmful rules if they return through executive actions or legislation.

URGE LEGISLATORS TO:

- Adequately address the needs of low-income immigrant families through investments in affordable housing and by reducing barriers to such affordable housing.
- Work to pass essential immigration reform legislation such as the "LIFT the BAR Act".

For More Information

National Housing Law Project's "Immigration Requirements: Assistance Programs for Housing and Homelessness, Energy, Disaster, and Water (ESG, CDBG, HOME, FEMA, RUSH, LIHEAP, LIWHAP, CRF, and ERAP): <https://bit.ly/3Vis9ma>.

National Immigration Law Center, National Housing Law Project, and NLIHC's "Eligibility for Assistance Based on Immigration Status": <http://bit.ly/3Rfd1Fp>.

Protecting Immigrant Families (PIF) Coalition's page, "Public Charge: A Major Win for Immigrant Families": <https://pifcoalition.org/our-work/public-charge>.

The Biden Administration's DHS "Public Charge Ground of Inadmissibility" Final Rule: <https://public-inspection.federalregister.gov/2022-18867.pdf>.

The Biden Administration's Department of State Final Rule: "Visas: Ineligibility Based on Public Charge": <https://bit.ly/3t9TRJb>.

DHS's (formerly Immigration and Naturalization Service) 1999 "Field Guidance on Deportability and Inadmissibility on Public Charge Grounds" final rule: <http://bit.ly/3vizXYy>.

The Trump Administration's DHS "Inadmissibility on Public Charge Ground" Final Rule: <https://bit.ly/38zU9K6>.

The Trump Administration's HUD "Housing and Community Development Act of 1980: Verification of Eligible Status" Proposed Rule: <https://bit.ly/2YGfu07>.

A summary of the Trump Administration's USDA proposal, "Implementation of the Multi-Family Housing Citizenship Requirements," was in the 2020 Spring Regulatory Agenda at: <https://bit.ly/3jZ2FbC>.

Keep Families Together campaign: <https://www.keep-families-together.org/>.

National Housing Law Project: <https://www.nhlp.org/initiatives/immigrant-rights/>.