

**OCEIA** SAN FRANCISCO OFFICE OF  
CIVIC ENGAGEMENT  
& IMMIGRANT AFFAIRS



SAN FRANCISCO  
HUMAN SERVICES AGENCY



**Welcome! 歡迎! Bienvenidos!**

# Para escuchar la interpretación en español en Zoom

## 連線Zoom收聽粵語口譯

### *To connect to Zoom interpretation*

En sus computadoras, moverán su ratón para que aparezca el menú en la parte de abajo de sus pantallas. Ahí encontrarán un globo terráqueo, oprímanlo y seleccionen español.

請將您的鼠標移至電腦屏幕下方所出現的選項菜單欄。您會找到一個小地圖/地球儀圖標。點擊此圖標並選擇「中文」頻道。

*On your computer, move your mouse to make the options bar at the bottom of your screen appear. You'll find a small globe/atlas there. Click on it and select English.*

En su teléfono inteligente, tableta o iPad, toquen su pantalla para que aparezca el menú de opciones; opríman MÁS o en los tres puntitos y seleccionen INTERPRETACIÓN DE IDIOMAS, luego opríman ESPAÑOL y FINALIZAR.

觸碰您的智能手機、平板電腦tablet或iPad的屏幕直到選項菜單欄出現；點擊「.../省略符號」或「More/更多」選項，然後選擇語言傳譯/LANGUAGE INTERPRETATION，之後按「中文」和「完成」。

*On your smartphone, tablet or iPad, touch your screen to make the options menu appear; click on the three dots or MORE option and then select LANGUAGE INTERPRETATION, then press ENGLISH & DONE.*

Ya deben ver un globito aparecer en su computadora. Si alguien se conectó en smartphone, tableta o iPad, busque interpretación de idiomas en el menú MÁS o en los tres puntitos. No olviden oprimir FINALIZAR una vez hayan seleccionado su idioma.

您應在您的電腦屏幕上看見到地球儀圖標。如果您是用智能手機、平板電腦tablet或iPad連線會議，點擊「.../省略符號」或「More/更多」選項後選擇「傳譯/Interpretation」功能。選擇您所需的語言後，請勿忘記按「完成」。

*You should now see the globe on your computer. If you are connected on a smartphone, tablet or iPad, look for the interpretation function in the MORE or in the three dots menu. Don't forget to press DONE once you select your language.*





SAN FRANCISCO  
HUMAN SERVICES AGENCY

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# Demystifying Public Charge

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**IMMIGRANT LEGAL RESOURCE CENTER**

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# Immigrant Legal Resource Center



# **Quick Background on Immigration: Different Statuses and Situations**

# Lots of Different Immigration Statuses and Situations

Nonimmigrant  
(temporary visa) e.g.,  
here on B-2 visitor  
visa, H-1B, F-1  
student visa

Refugee or Asylee

DACA

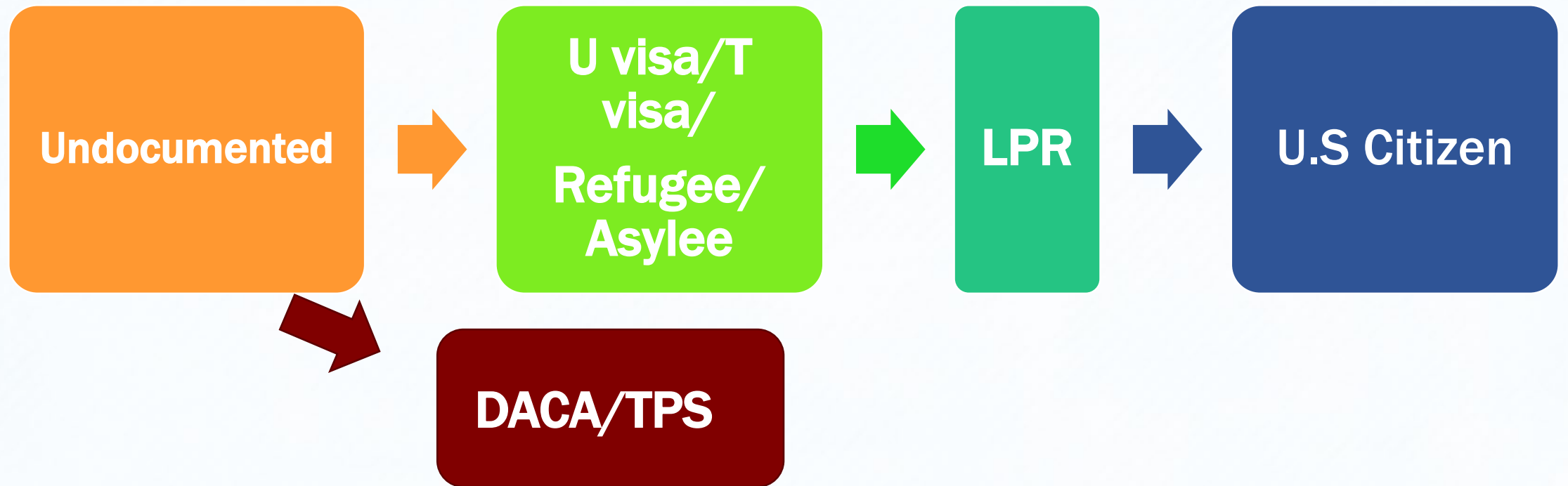
Temporary Protected  
Status (TPS)

Lawful Permanent  
Resident (LPR/green  
card holder)

U visa or T visa



# Basic Immigration Pathway



# What Is Public Charge?



# What is Public Charge?

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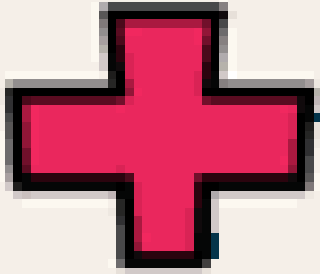
It's a test (assessment) for some immigration applications to determine whether the applicant is **likely to depend on public benefits in the future**



# “Public Charge”

- Refers to an immigration law that says in **specific situations**, an immigration officer can consider whether someone will likely be **primarily dependent on cash aid or long-term institutionalized care**
- This law does not affect all immigrants
- This law does not change who is eligible for many public benefits and programs





# Access to Benefits

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Public Charge is NOT about who is eligible to use benefits!

In California, many programs include immigrants and family members.

**Example:**

Full-scope Medi-Cal for all through age 25 and age 50 and over

# Many Immigrants Are Not Subject to Public Charge

- **Refugees and asylees**
- **Special Immigrant Juveniles**
- **Victims of certain crimes (U visa)**
- **Victims of human trafficking (T visa)**
- **Most legal permanent residents (LPRs, “green card” holders)**
- **U.S. citizens and those applying for U.S. citizenship**
- **Others** (Amerasians, Afghan and Iraqi military translators, certain Cuban and Haitian adjustment applicants, certain Nicaraguans and Central Americans under NACARA, registry applicants, Soviet and Southeast Asian Lautenberg parolees)

# Public Charge Test

- Only applies to some immigration applications
  - Most common: applying for a green card through a family member's petition

**Example: Yali marries a U.S. citizen. Yali's spouse files a petition for her. Based on this relationship and petition, Yali applies to become a permanent resident (green card holder). Yali will need to show she is not a "public charge"**

# Public Charge Test

A test in immigration law applied in 2 situations:

When a person

- **Applies for a visa to enter the United States**
- **Applies for a green card through a family member who is a U.S. citizen or green card holder, or through employment**



# Public Charge

Many immigration benefits and processes do NOT have a public charge test:

- Applying for DACA
- Applying for TPS
- Applying for SIJS
- Applying for U visa or VAWA
- Applying for asylum
- Getting a green card as an asylee, as a U visa holder, or after an immigration court case for “cancellation of removal”
- Renewing a green card and removing conditions of 2-year green card (Form I-751)
- Applying for naturalization (application for U.S. citizenship)



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When a person is renewing their green card,  
are they subject to public charge?

**No, there is NO public charge test  
to renew a green card!**

## **Applying for Citizenship?**

- **No, there is NO public charge test when a green card holder applies for naturalization (to become a U.S. citizen)!**



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**Do green card holders ever need to worry about public charge?**

**Most of the time, no**

**But, if a green card holder takes a trip outside the U.S. AND stays out for more than 180 days or commits certain crimes, they could be asked about public charge when they try to return**



# Example

Maya has a green card and she is ready to naturalize to become a U.S. citizen. She's worried about public charge and whether it applies to her.

Maya does **NOT** need to worry about public charge because there is no public charge test to naturalize.

# Example

Jesus has DACA and no immediate way to get a green card. Jesus does **NOT** need to worry about use of benefits or public charge because there is no public charge test for DACA renewals.

Chris is engaged to a US citizen who will be petitioning for them. Chris **WILL** need to consider public charge as part of their application for a green card.

# Limited Application

- Only applies when filing certain applications
- Some immigration categories exempt
- Not an enforcement tool

# What Is the Current Status of Public Charge?



# **New rule took effect in late December 2022!**

- Does not change any of the law we just discussed
- It is meant to *stabilize* current policies
- Reinforces longstanding policies from *before* Trump Administration

# What's been happening with public charge...

**Last 20+ years, up until Trump administration:** following longstanding guidance from 1999; strong affidavit of support often sufficient to show no public charge problem

**During Trump administration:** extreme chilling effect; new, much more restrictive rules on public charge in effect 2/24/2020 – 3/9/2021 (but very few cases actually denied during this time based on public charge)

## **Post-Trump:**

3/9/2021 – 12/22/2022: return to 1999 guidance

12/23/2022 – present: new final rule (very similar to 1999 guidance)

# Defining Public Charge

Public Charge = someone who is likely to become **primarily dependent** on the government for income support, as shown by reliance on:

- **Cash assistance**  
(SSI, Temporary Assistance for Needy Families/TANF, CalWorks, General Assistance) for income maintenance OR
- **Institutionalization for long term care**  
at government expense (like a nursing home or mental health institution)

No other benefits “count” against a person in public charge test

# Many public benefits programs do NOT count, including:

- ANY benefits received by family members
- Children's Health Insurance Program (CHIP)
- Medicaid/Medi-Cal
- Food stamps/SNAP/CalFresh
- Section 8 rental assistance and federal public housing
- Emergency and school-based Medicaid
- Services available to the community as a whole (no income requirement)
- Women, Infants, & Children (WIC) benefits
- Covid vaccines and treatment
- Public health services, like free vaccinations
- School-based nutrition services like free and reduced school meals
- Public education, Head Start
- Earned benefits, such as unemployment, social security retirement, worker's compensation
- Tax credits
- Any other federal, state, or local benefit besides cash aid or long-term institutionalization

# Defining Public Charge

Programs and services used by family members do not “count” against an applicant in a public charge test.



# Example

Laura is undocumented. Her children are US citizens. Her children qualify for benefits. Laura worries, because of her status, that her children should not sign up.

Laura's children's use of benefits will not affect Laura, if she later has a way to apply for immigration status. Also, right now Laura is not subject to a public charge test and depending on what application she applies for in the future, she may not be subject to public charge then either.

# Example

Daniel is a U.S. citizen and receives financial aid. His parents are undocumented. Daniel worries that his use of financial aid will affect his parents in a public charge determination.

Does Daniel need to worry about financial aid and public charge?

What if Daniel were also undocumented?

# **Immigration officers must look at many factors**

- **Receipt of public benefits that count is just one piece!**
- **People's circumstances change!**
- **Form I-864 Affidavit of Financial Support is required in these cases (and is strong evidence a person is not likely to be a public charge in the future)**

# Will it hurt my sponsor if I use services?

- In some cases, the income of the sponsor will be considered to determine if a noncitizen income qualifies for a benefit. This is called “deeming”
- California has no mechanism to ask sponsor’s to “pay back” benefits used by a noncitizen they sponsored.

# What Should Individuals Do Now If They're Worried about Public Charge?

# Remember these key points:

- Public charge does not change who is eligible for public benefits
- Public benefits received by family members do not count!
- Public charge only applies in 2 situations:  
when applying to enter the U.S. or applying for a green card through family or an employer
- Many immigrants are not impacted by public charge!  
(VAWA, U, T, refugees, asylees, only DACA and TPS if applying for green card through family or an employer)



# What should community members do now?

- **Stay informed**—a lot is changing but there are good resources available!
- **Get a consultation**—understand your situation and your options
- **Get involved**—raise your voice to support greater protections for the immigrant community!

# Watch out for fraud!

Seek help from a trustworthy source:

- Only an attorney or accredited representative can give you legal advice
- A legal service provider should:
  - ✓ Provide a contract and receipts for payments
  - ✓ Explain the process and answer questions
  - ✓ Follow the rules

# Get a Consultation

- National legal directory by zip code of nonprofits providing immigration legal services: [ilrc.me/findhelp](https://ilrc.me/findhelp)
- Selected list of immigration legal service providers in CA: <http://www.cdss.ca.gov/Benefits-Services/More-Services/Immigration-Services/Immigration-Services-Contractors>

# Identify Legal Options

- Permanent Residence (Green Card) through a family member
- Parole-in-Place for Military Families
- VAWA for domestic violence victims
- U visa for crime victims
- T visa for trafficking victims
- Asylum
- Special Immigrant Juvenile Status
- Acquisition or Derivation of Citizenship
- Employment-Based Options

# More Information

**ILRC:**

<https://www.ilrc.org/public-charge>

**Protecting Immigrant Families:**

<https://protectingimmigrantfamilies.org/>

**NILC:**

<https://www.nilc.org/issues/economic-support/>



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**THANK YOU! 謝謝！ ¡GRACIAS!**

**Any Questions? 任何疑問？  
¿Alguna pregunta?**

# **For Benefits Workers: How to Approach Public Charge Questions**



# First ask yourself: Is this a benefits program that even counts for public charge purposes?

- Is it a public charge question related to receipt of
  - SSI
  - TANF
  - CalWorks
  - General Assistance
  - CAPI
- If YES, then public charge could be at play
- If NO, then public charge is irrelevant. No need to think about public charge AT ALL!

Does public charge  
affect me if I'm  
receiving food  
stamps?

No!

Do I need to worry about public charge if I have WIC?

No!