

Next Steps on the Public Charge Rule and Comments from Massachusetts Organizations to the Biden Administration

Updated April 6, 2022

Where are we now on public charge?

In March 2021, the Biden administration withdrew the harmful public charge regulation which had been published during the prior administration. In August 2021, the Biden Administration published an [Advance Notice of Proposed Rulemaking](#) (ANPRM) asking for feedback to help guide the development of a new regulation on public charge.¹ On February 24, the administration published a [Notice of Proposed Rulemaking](#) (NPRM). Public comment will be accepted through April 25, 2022. Only after review of these comments is the Administration expected to publish the final regulation.

What would the Proposed Regulation do?

The proposed regulation would largely codify the public charge policy that is currently in place and had been in place since 1999 until the 2019 Trump rule. Under this policy, certain individuals applying for a visa or lawful permanent residence would be inadmissible (meaning ineligible for a visa or green card) as a public charge if they are likely to become “primarily dependent” on the government by either the receipt of public cash assistance for income maintenance or by long-term institutionalization at government expense. Under this rule, immigrants will generally be able to access benefits for which they qualify without immigration consequences. The proposed rule is largely viewed as decent and a definite improvement over the Trump era rule, though there are some areas where it could be improved.

What is the overall strategy on providing public comments?

The [Protecting Immigrant Families](#) network, led by the National Immigration Law Center (NILC) and the Center for Law and Social Policy (CLASP), is spearheading the national strategy on responding to the developments around public charge. At this stage, the PIF network is focused on building a strong record of support for the proposed regulation, while also making targeted suggestions for discrete improvements. To that end, they will be employing three distinct strategies: **First**, the national PIF network is planning to coordinate a small number of focused, detailed comments on technical aspects of the regulation and specific suggested changes. Unlike past comment strategies around public charge, it is important for the Biden administration to be able to move through the process relatively quickly, while also gathering high-quality feedback from experts in the field. In coordination with the national PIF network, the Massachusetts PIF coalition will be submitting a comment. **Second**, the national PIF network will be drafting a sign-on comment for state, local and national organizational endorsements. They will be seeking as many organizational sign-ons as possible in an effort to show consensus and strong support among advocates. Massachusetts PIF will help disseminate this comment here in Massachusetts to help with the sign-on campaign. **Third**, rather than encouraging individuals to submit comments, the national PIF network has prepared a petition for individuals who wish to endorse the regulation. More information on all of these below!

¹ Public charge is one of the grounds for “inadmissibility” of a non-citizen seeking to enter the United States. For more information on public charge, go [here](#).



Will there be a comment for Massachusetts organizations to sign on to?

Massachusetts organizations are encouraged to sign on to the national comments prepared by the PIF network. Those comments can be viewed [here](#), and the form to sign-on is available [here](#). The deadline to sign on is April 21, 2022.

Can/Should my organization submit a comment?

If your organization wishes to submit a separate comment to share a unique perspective or complement existing comments, you may do so directly through the Federal Register [comments portal](#) by 11:59pm EST on April 25, 2022. The national PIF comment will address the critical core issues and provide thorough feedback, so please reach out to the Massachusetts PIF coalition organizations prior to submitting a comment to ensure that we are all working together to advocate consistently for a good regulation.

Can state and local agencies submit a comment?

Yes! States and localities are encouraged to participate by submitting a written comment. PIF partners have created a [resource](#) with tips and sample language that can be used by state and local agencies to draft a comment.

Can/Should I submit a comment as an individual?

Individuals are encouraged to sign the PIF comment [petition](#) instead of submitting an individualized comment. The deadline to sign the petition is April 21, 2022. The petition is available in 9 languages (Arabic, Chinese, English, French, Haitian Creole, Korean, Spanish, Tagalog and Vietnamese) and signers will also have an opportunity to send a tweet encouraging others to sign on.