

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



SAN FRANCISCO  
HUMAN SERVICES AGENCY



**Welcome! 歡迎!**  
**Bienvenidos! Mabuhay!**

# To Connect to Zoom Interpretation

- On your computer, move your mouse so that the bar at the bottom of your screen appears. You'll find a small globe there. Click on it and select your preferred language.
- On your smartphone, tablet or iPad, touch your screen so that the options menu appears. Click on the three dots or MORE option and then select LANGUAGE INTERPRETATION, then press your preferred language and then click DONE.
- You should see the globe on your computer. If you joined from a smartphone, tablet or iPad, look for the interpretation function in the MORE section or in the three dots menu. Don't forget to press DONE once you select your preferred language.





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HUMAN SERVICES AGENCY

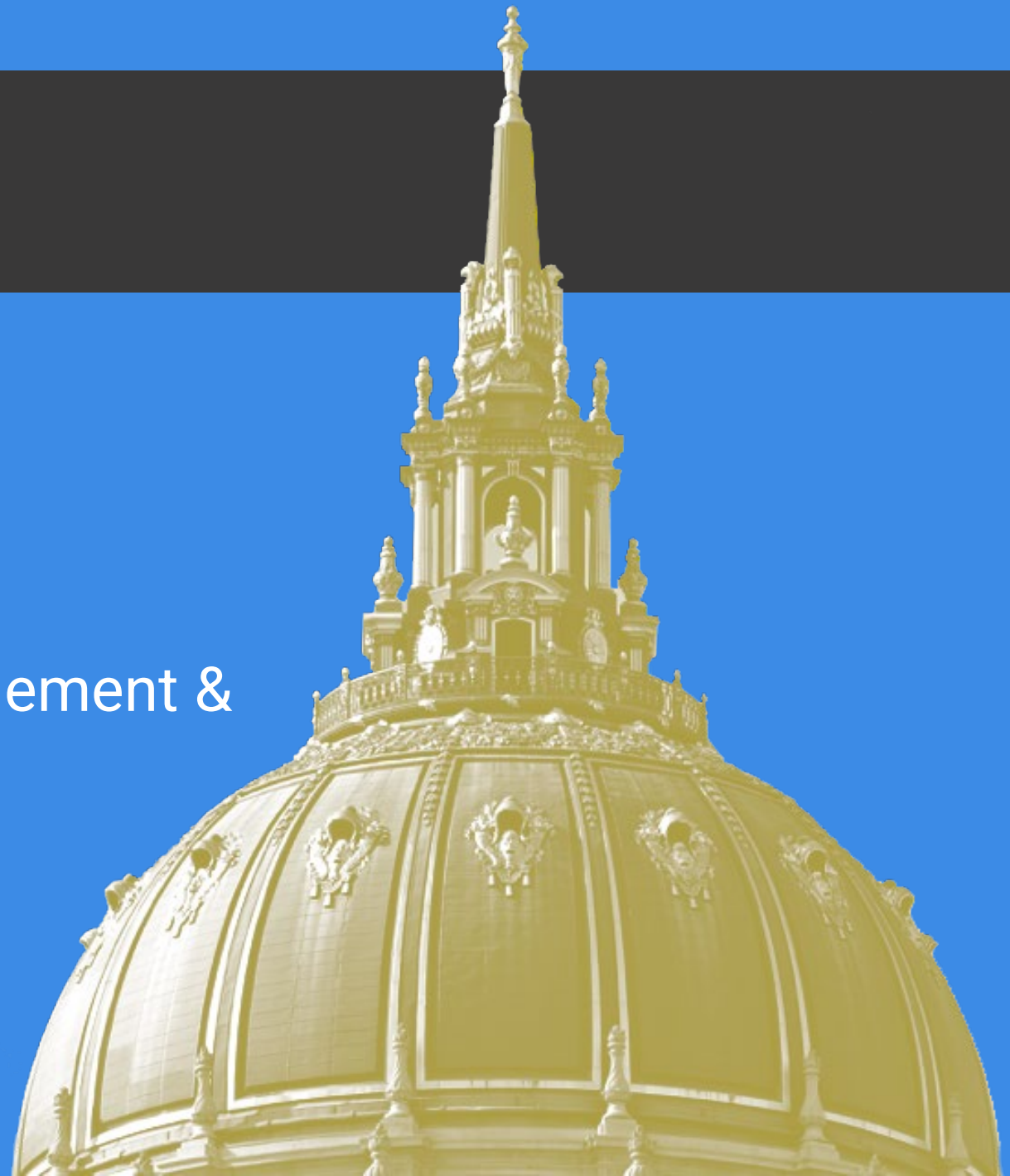
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# Immigrant Legal Resource Center



# Understanding the Immigration Impact of Using Benefits

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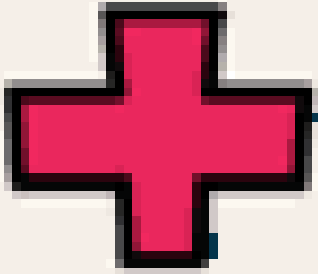
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**IMMIGRANT LEGAL RESOURCE CENTER**

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# 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.

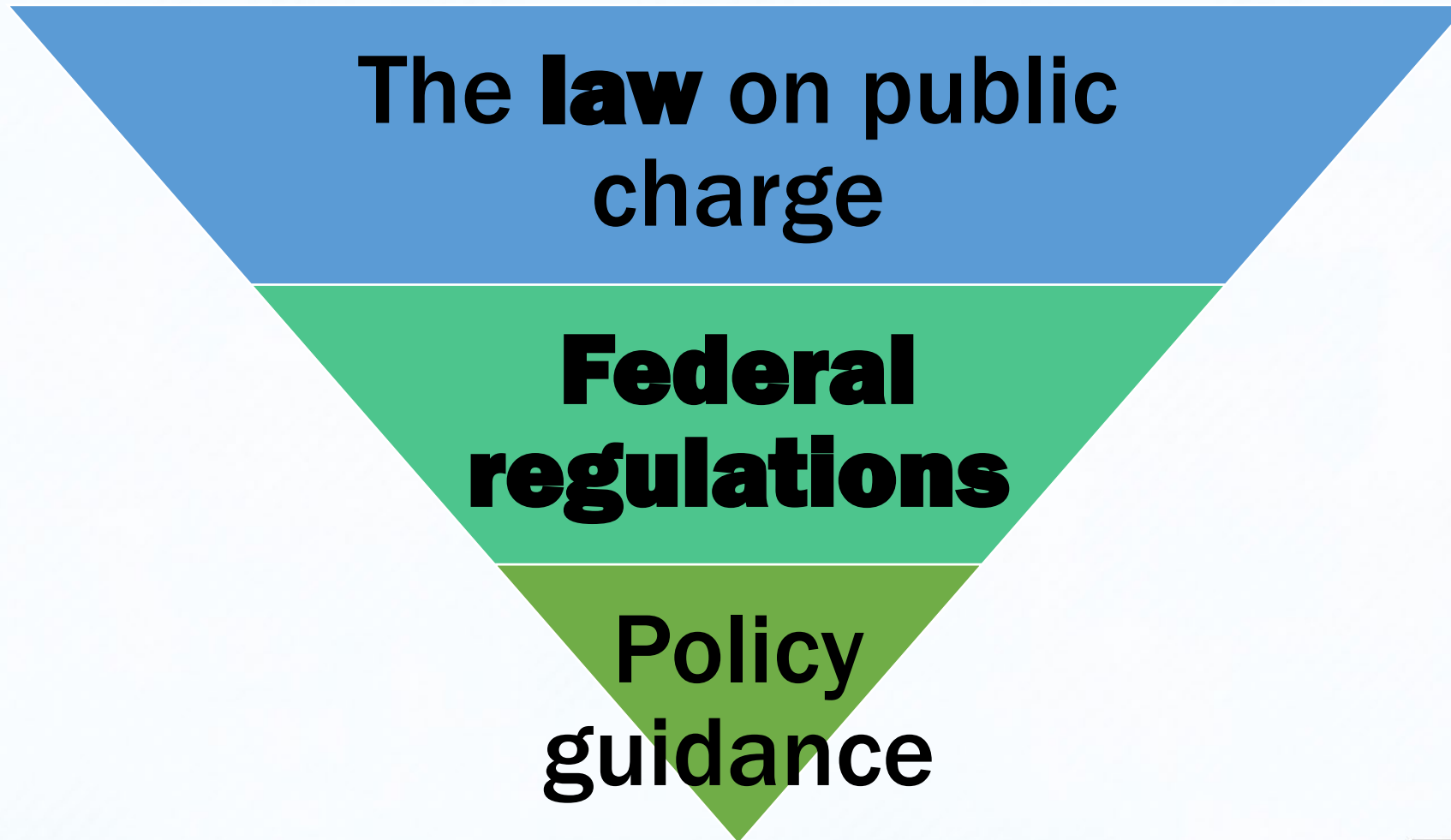
## Example:

Full-scope Medi-Cal (for those who meet the income eligibility requirements), regardless of age or immigration status

# Addressing Election Fears: What Can and Can't Be Changed by a New Presidential Administration Relating to Public Charge



# Legal authority on public charge – in descending order of authority



# What the Government Can and Can't Change Regarding Public Charge

- Only **Congress** can change the **law** on public charge
  - Unlikely to see Congress change public charge law any time soon
- An **agency**, like Department of Homeland Security, could change **federal regulations** (“rules”)
  - Must go through a specific process including providing advance notice of proposed changes and accepting public comments, which **takes time**
  - Right now, we have a rule put in place by the Biden administration
- **Policy guidance** is the easiest to change
- Changes in federal public charge policy do NOT change who is eligible to use benefits

# No Matter What You Hear in the News, These Core Messages Remain True:

- Public charge is **NOT** about access to benefits
- **Family members can use benefits with no impact** on a relative's public charge test
- **Many immigrants are not subject to public charge at all**, because they are submitting an immigration application that does not involve a public charge test or are not submitting any immigration application at all!
- Even if the federal government tries to change public charge, **it will not change who can access benefits in California**
- Even if the federal government tries to change public charge, **they would have to make a new rule which will take time, and we'll have lots of advance notice**

# 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

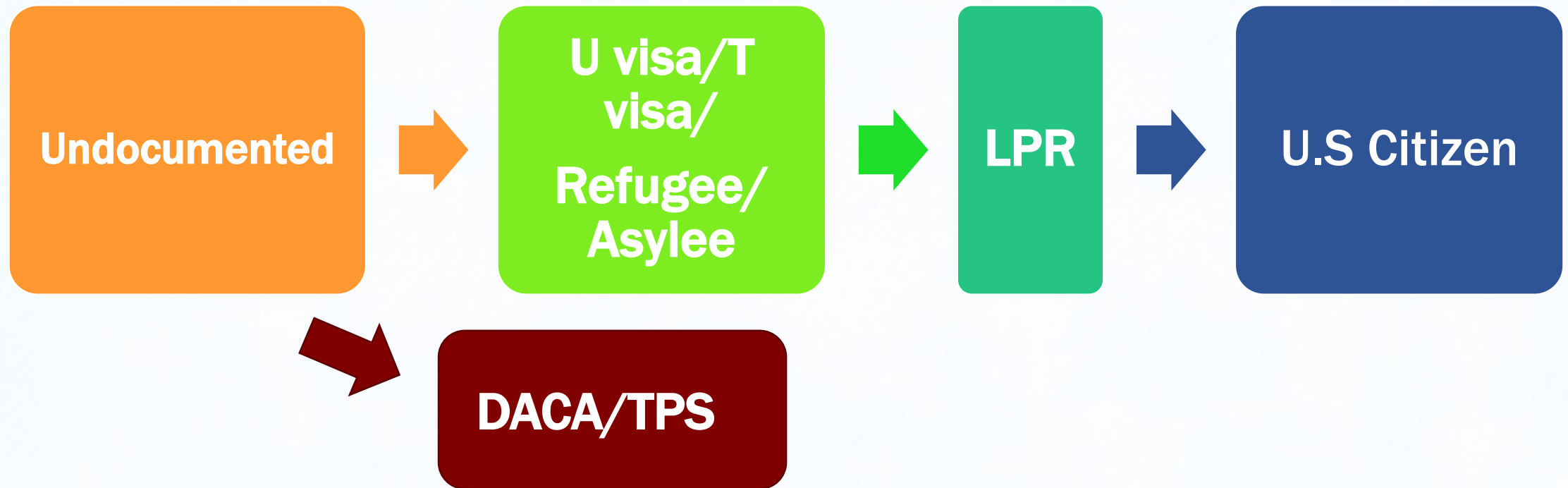
DACA

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 in the future
- This law does not affect all immigrants
- This law does not change who is eligible for many public benefits and programs

# 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 who is a U.S. citizen or green card holder

**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!**



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## 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?

# **Biden Rule in effect since late December 2022!**

- **Implements the laws we just discussed**
- **Reinforces longstanding policies from *before* Trump Administration**
- **Intended to make current policies harder to change**

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

**Last 20+ years, up until Trump administration:** following longstanding guidance from 1999; strong affidavit of financial support by sponsor 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: Biden final rule in effect (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** for income maintenance  
(SSI, TANF, CalWorks, CAPI, General Assistance)  
*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 sponsors 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?

- Get a consultation—understand your situation and your options—most immigrants do not have to worry about public charge rules.
- Get the benefits you need!
- 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 for children & youth who have been abused, abandoned, or neglected
- Acquisition or Derivation of Citizenship through a parent
- 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!  
MARAMING SALAMAT PO!**

**Any Questions? 任何疑問?  
¿Alguna pregunta?  
May mga katanungan po kayo?**

# 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**
  - **CAP**
- 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!