

Public Charge

**When is it safe for
immigrants to access
benefits?**



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Northwest Justice Project

Draft Executive Order

Executive Order—Protecting Taxpayer Resources by Ensuring Our Immigration Laws Promote
Accountability and Responsibility

EXECUTIVE ORDER -----

PROTECTING TAXPAYER RESOURCES BY ENSURING OUR IMMIGRATION LAWS PROMOTE ACCOUNTABILITY AND RESPONSIBILITY

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193), as amended (PRWORA), I hereby order as follows:

Section 1. Purpose. Our country's immigration laws are designed to protect American taxpayers and promote immigrant self-sufficiency. Yet households headed by aliens are much more likely than those headed by citizens to use Federal means-tested public benefits. Our immigration laws must be enforced in a manner that protects our taxpayers and promotes self-sufficiency.

Sec. 2. Policy. It is the policy of the United States to:

- (a) deny admission to any alien who is likely to become a public charge;
- (b) identify and remove, as expeditiously as possible, any alien who has become a public charge and is subject to removal; and
- (c) seek reimbursement from all sponsors of immigrants for the costs of Federal means-tested public benefits provided to sponsored immigrants.

Sec. 3. Reforms to Immigration Policies and
in section 2 of this order.

Public Charge definition



An individual who is likely to become



primarily dependent on the government for subsistence



as demonstrated by either the receipt of

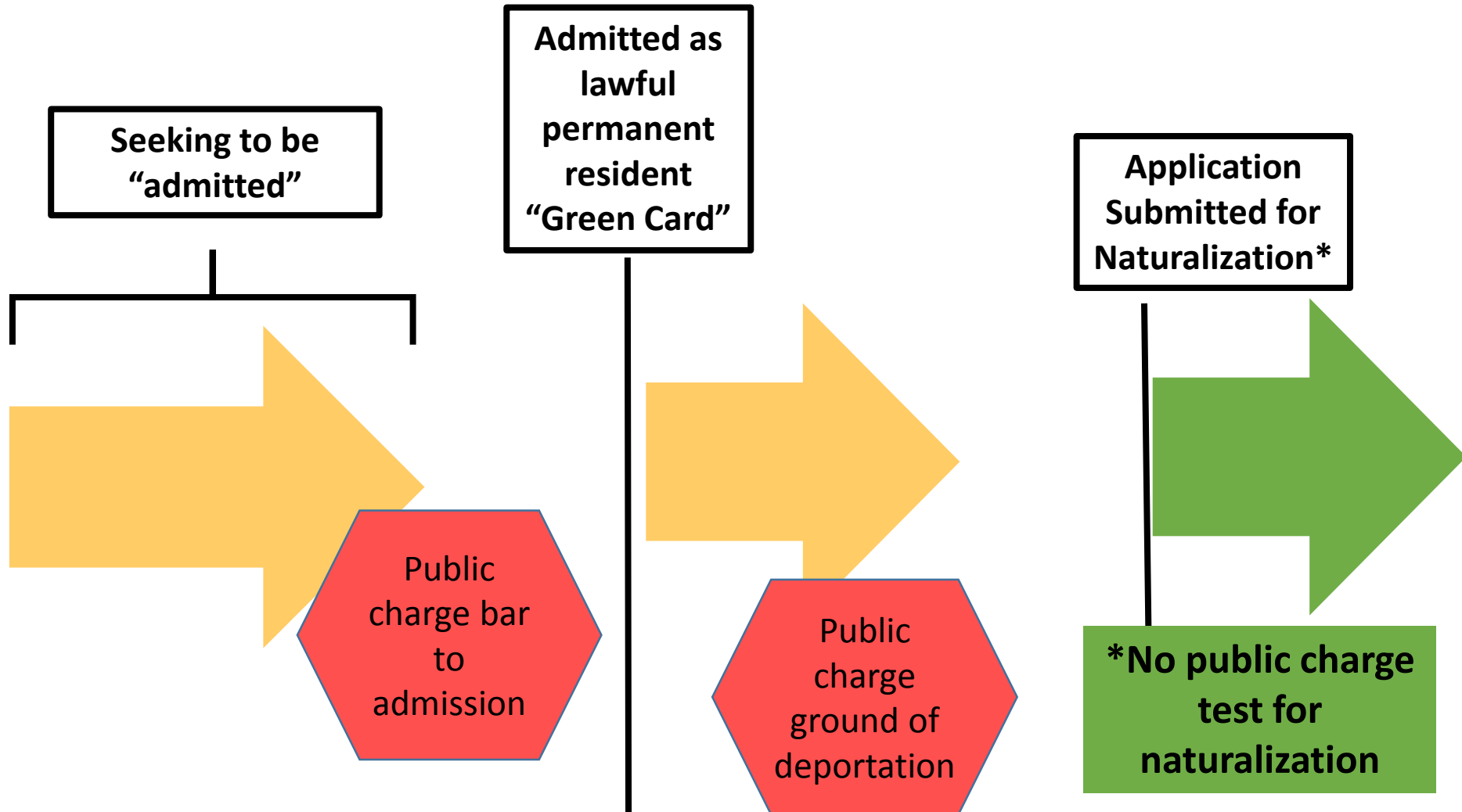
public cash assistance for
income maintenance

or

institutionalization for long-
term care at government
expense

Field Guidance issued in 1999, 64 FR 28689

When does the public charge test apply?



Public Charge- Inadmissibility

An immigrant who
“is likely at any time to become
a public charge” is inadmissible.

INA 212(a)(4)

age

health

family
status

assets,
resources and
financial status

education
and skills

Affidavit of
Support

Immigrants not subject to public charge ground of inadmissibility

refugees

asylees

**victims of
trafficking**

**VAWA self-
petitioners**

**VAWA
cancellation**

**U visa
holders**

**special
immigrant
juveniles**

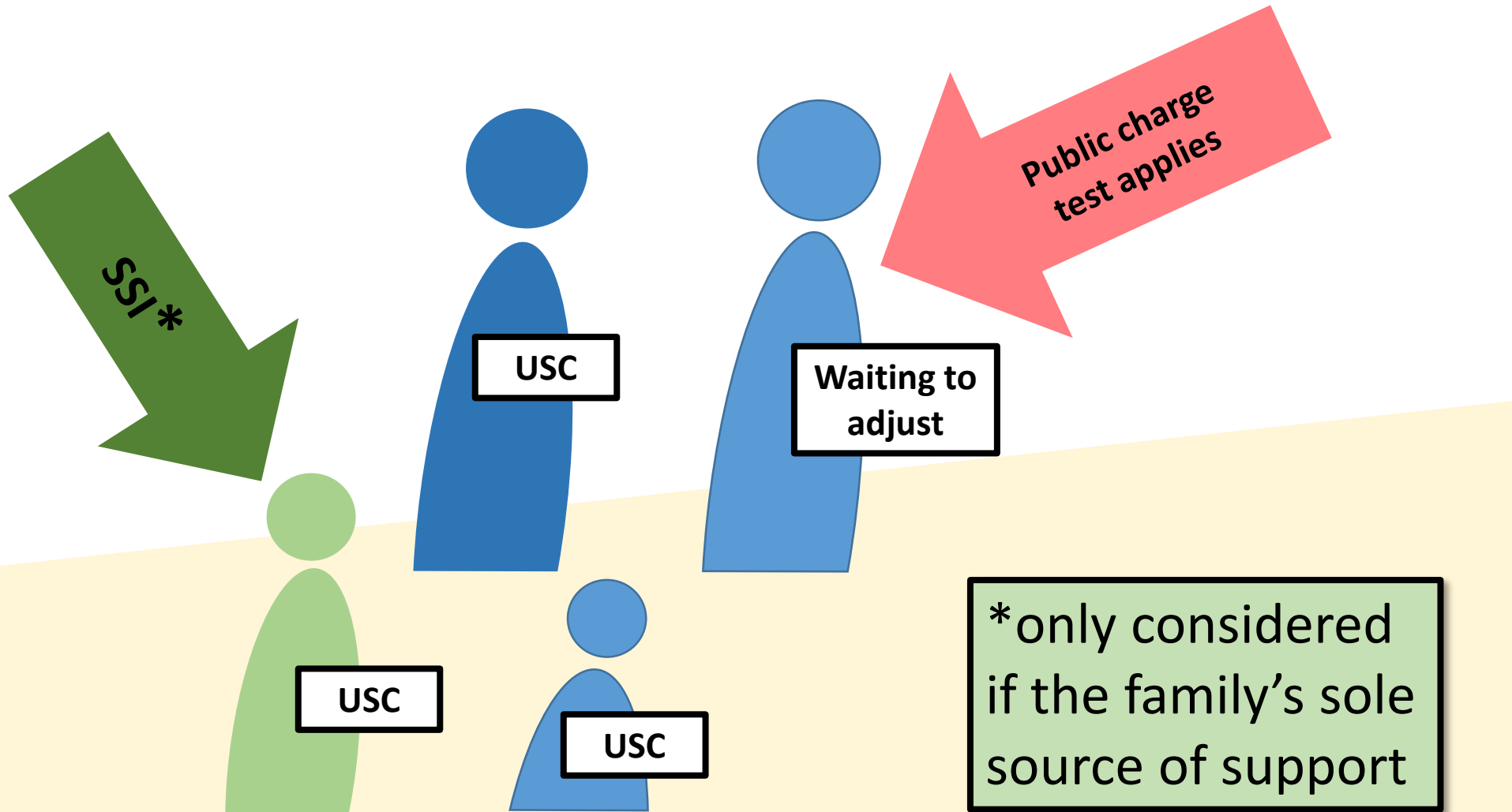
NACARA

**certain Cubans
and Haitians**

**Lautenberg
parolees**

**registry
applicants**

What if a family member receives public assistance?



Public Charge - Deportability

A person who within five years after the date of entry

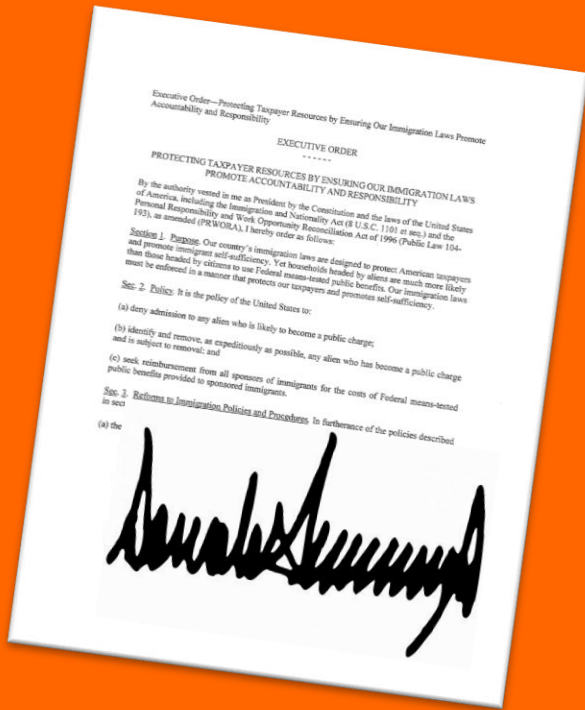
has become a public charge

from causes not affirmatively shown to have
arisen since entry is deportable

INA 237(a)(5)

RARELY
ENFORCED

Signed Executive Order?

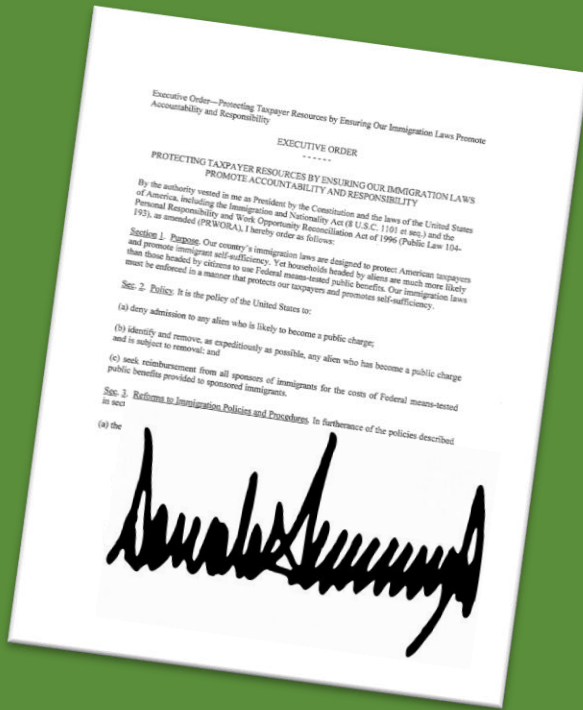


Receipt of ALL types of means-tested benefits could be considered

Increased efforts to recover from sponsors

More aggressive pursuit of deportations on public charge grounds

What will not change



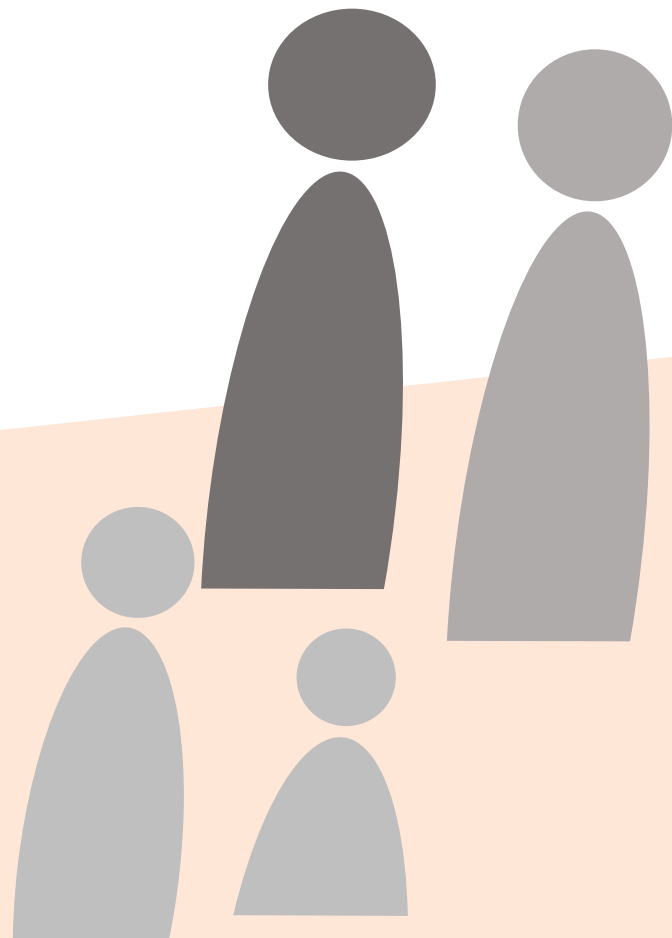
Inadmissibility remains prospective test based on totality of the circumstances

Deportability ground remains limited

Exempt groups remain exempt

Advising your clients

????



Exempt?

How soon
eligible to
adjust?

Other
favorable
factors?

Short term need
for benefit?

Draft EO may
never be
signed.

Can client take
steps to
strengthen case?

Privacy
protections
remain in place