



# Office of Children and Family Services

Kathy Hochul  
Governor

52 WASHINGTON STREET  
RENSSELAER, NY 12144

Sheila J. Poole  
Commissioner

## Local Commissioners Memorandum

<b>Transmittal:</b>	22-OCFS-LCM-24
<b>To:</b>	Local Departments of Social Services Commissioners
<b>Issuing Division/Office:</b>	Division of Child Care Services
<b>Date:</b>	August 25, 2022
<b>Subject:</b>	<b>Child Care Assistance Program and the End of the Public Charge Rule</b>
<b>Contact Person(s):</b>	Sonoma Pelton, OCFS Bureau of Child Care Assistance, 518-408-6074 <a href="mailto:Sonoma.Pelton@ocfs.ny.gov">Sonoma.Pelton@ocfs.ny.gov</a> <a href="mailto:ocfs.sm.districtsupport.subsidy@ocfs.ny.gov">ocfs.sm.districtsupport.subsidy@ocfs.ny.gov</a>
<b>Attachments:</b>	Attachment A, <i>CCAP Public Charge Poster</i> (English) Attachment B, <i>CCAP Public Charge Poster</i> (Spanish)

### I. Purpose

The purpose of this Local Commissioners Memorandum (LCM) is to conduct an outreach effort reaffirming current public charge policies, specifically reminding local social services districts (districts) that participating in the Child Care Assistance Program (CCAP) does not make someone a public charge and will not be considered in a public charge determination.

### II. Background

The public charge rule relates to grounds for inadmissibility under U.S. immigration law. In 1999, the former Immigration and Naturalization Service (INS) published interim *Field Guidance on Deportability and Inadmissibility on Public Charge Grounds* to address deportability and inadmissibility on the grounds of a person's status as a public charge. The guidance clarified that receipt of non-cash benefits (such as child care assistance) should *not* be considered in determining whether a non-citizen is likely to become a public charge. The 2019 Public Charge Final Rule expanded public charge factors to include a non-citizen who receives one or more public benefits for more than 12 months in total within any 36-month period. However, as of March 2021, the 2019 Public Charge Final Rule is no longer in effect. The 1999 interim *Field Guidance on Deportability and Inadmissibility on Public Charge Grounds* is now back in effect. The switch between policies may cause confusion about the relationship between the receipt of public benefits and being considered a "public charge," and deter non-citizens and their families from seeking benefits they may be eligible to receive. Therefore, the New York State Office of Children and Family Services (OCFS) is reaching out to districts to remind districts of the policy change so that immigrants and their families are not deterred by confusion or fear from obtaining access to important benefits. **To clarify, being in receipt of CCAP does not make the recipient a "public charge" or negatively influence their immigration status.**

### III. Program Implications

There is no change to the eligibility criteria, application, or case closing processes associated with CCAP. A child who is a United States citizen, national, or has satisfactory immigration status may receive CCAP regardless of the residency status of the child's parent(s) or custodial relative(s), if otherwise eligible for CCAP.

Any individual who contacts their district seeking to submit an application for benefits, withdraw an application, or disenroll from benefits by closing their case must be permitted to do so.

OCFS encourages districts to display the attached public charge outreach posters (in English and Spanish) in all reception and lobby areas where applications for CCAP are accepted. OCFS will not be printing or shipping copies of the posters.

Districts are encouraged to either post the CCAP information pertaining to public charge on their website or add the posters directly to their district's website. However, districts are reminded that staff must not offer advice, recommendations, or opinions about how an individual's receipt of benefits might impact a public charge determination. Individuals with questions specific to public charge, including but not limited to how the receipt of benefits might affect the individual's immigration application or status, should be directed to contact their immigration attorney and/or referred to the New York State Office for New Americans Hotline at 1-800-566-7636.



---

**Issued by:**

Name: Nora K. Yates

Title: Acting Deputy Commissioner

Division/Office: Division of Child Care Services