

Sponsored Immigrants & Benefits in California

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What is a Sponsor?

A sponsor is a person who has helped an immigrant become a lawful permanent resident ("green" card-holder) by signing an "affidavit of support."

What is an Affidavit of Support?

An affidavit of support is a contract signed by the sponsor, to show that the immigrant applying for a green card is not likely to become dependent on the government, or a "public charge." "Public charge" is a term used to describe persons who rely on cash welfare for their income, or who are in long-term care (nursing homes). See "Federal Guidance on Public Charge: When Is it Safe to Use Public Benefits?" at <http://www.nilc.org/ce/ceindex.htm#pubchrg>.

Are Affidavits of Support Enforceable?

It depends on which type of affidavit the sponsor signed. There are two major types of affidavits. The "**nonenforceable**" affidavit of support (USCIS Form I-134), which is the main form used before December 19, 1997, is still used by some immigrants and cannot be enforced. The "**enforceable**" affidavit of support (USCIS Form I-864) went into use on December 19, 1997. It is a binding contract by the sponsor for support of the immigrant and for repayment of certain benefits received by the immigrant.

Which Immigrants Must Use an "Enforceable" Affidavit of Support?

- ◆ Most immigrants who apply for a green card through a family member after December 19, 1997.
- ◆ Most immigrants who apply for a green card through an employer after December 19, 1997, if the employer is a relative or if a relative owns more than five percent of the business.

NOTE: Persons with credit for 40 quarters of work history in the United States (including work performed by a spouse during marriage and parents while the immigrant was under 18 years old) do not need to file an "enforceable" affidavit of support. Children who will automatically become U.S. citizens when they immigrate under the Child Citizenship Act similarly do not need to file an "enforceable" affidavit of support.

Which Immigrants Do Not Need to Use an Affidavit of Support?

Several types of immigrants do not need to have sponsors — for example:

- ◆ Refugees and asylees applying for a green card.
- ◆ Persons applying for a green card through: Registry (residence in the U.S. since before January 1, 1972); the Nicaraguan Adjustment and Cuban American Relief Act; the Haitian Refugee Immigration Fairness Act; and the Cuban Adjustment Act. Certain Indochinese, Polish, and Hungarian parolees, and persons applying as special immigrant juveniles also don't need sponsors.

Are There Income Requirements for Sponsors Who Sign the "Enforceable" Affidavits?

Yes. Sponsors who sign "enforceable" affidavits must show that they earn enough to support a household at 125 percent of the federal poverty level (currently \$29,250 for a household of five). The household includes:

- ◆ The immigrant;
- ◆ Family members joining the immigrant;
- ◆ The sponsor, sponsor's spouse, and children under 21;
- ◆ Dependents; and
- ◆ Other immigrants sponsored under the I-864.

Sponsors who don't earn enough money can show that their assets (such as a house, car, or bank account) are worth 5 times the difference between 125 percent of the federal poverty level and their income (or 3 times this difference, if a U.S. citizen is petitioning for a spouse or child). Sponsors who can't meet these requirements may find a joint sponsor, who also must sign an affidavit of support promising to support the immigrant.

Can Immigrants Whose Sponsor Signed an "Enforceable" Affidavit Get Benefits?

Yes. In California, immigrants whose sponsors sign enforceable affidavits can get benefits. However, their sponsor's income may be added to theirs ("deemed" as theirs) when they apply for certain benefits, such as CalWORKs, CAPI, and food stamps. See "Major Benefits Programs Available to Immigrants in California" (California Immigrant Policy Center, Jan. 2007) at www.nilc.org/ce/nonnilc/cal_benefits_table_2007-01-02.pdf.*

Does the Sponsor's Income Count When the Immigrant Applies for Public Benefits?

Sometimes. Under "immigrant sponsor deeming," the income and resources of the immigrant's sponsor are considered, or "deemed," to be available to the sponsored immigrant when he or she applies for certain public benefits. Deeming rules usually make the immigrant ineligible for benefits because adding the sponsor's income and resources renders the immigrant "over-income." There are exceptions to the deeming rules — for example, for domestic violence victims or immigrants who would go hungry or homeless without assistance. See "Deeming Rules in California" at www.nilc.org/ciwc/tbls_other-mats/Deeming_CA_refrmttd_vers_1003.pdf-search=%22deeming%22.

Will the Sponsor Need to Repay Benefits Used by the Sponsored Immigrants?

It depends. Sponsors who signed the "nonenforceable" affidavits (Form I-134) are **not** required to repay benefits used by the immigrant. But sponsors who sign the "**enforceable**" affidavit of support (Form I-864) may be required to repay the government for "means-tested" benefits used by the immigrant after he or she becomes a lawful permanent resident.

* This sentence was revised on Jan. 17, 2007, to provide an updated link to the updated table.

Which Public Benefits Will a Sponsor Need to Repay?

Sponsors who sign "enforceable" affidavits of support (Form I-864) may need to repay "means-tested public benefits" used by the immigrant after he or she becomes a lawful permanent resident. The only federal benefits that are considered "means-tested" are: Supplemental Security Income (SSI), food stamps, CalWORKs, Medi-Cal (nonemergency), and Healthy Families. Most immigrants whose sponsors signed "enforceable" affidavits of support have not been eligible for these federally funded programs, due to a five-year bar (waiting period) on these services. California provides benefits to some of these immigrants using state funds. But California has not decided which state-funded benefits a sponsor may need to repay and cannot ask sponsors to repay benefits used before it makes this decision. States are not required to go after sponsors, and *to our knowledge, no government agency in California has sought reimbursement from a sponsor up to now.*

Do Sponsors Who Sign "Enforceable" Affidavits Need to Repay Every Benefit?

No. Sponsors will **not** need to repay the cost of emergency Medi-Cal or other emergency medical care, immunizations or testing and treatment for communicable disease symptoms (outside of Medi-Cal), short-term noncash emergency aid, school breakfast or school lunch, Head Start, Student Financial Aid, Job Training Partnership Act programs, certain noncash services that are available regardless of income, or many other programs that have not been named as "means-tested" benefits. And *sponsors who are receiving food stamps do not need to repay the cost of food stamps received by the sponsored immigrant.*

Are Sponsors Responsible for Benefits Used by the Immigrant's U.S. Citizen Children?

No. Sponsors are not responsible for benefits used by the sponsored immigrant's U.S. citizen children or by any other "nonsponsored" family members.

When Does the Sponsor's Responsibility Begin?

When the immigrant becomes a lawful permanent resident.

When Does the Sponsor's Responsibility End?

Sponsors who signed "enforceable" affidavits are not responsible for benefits used after the immigrant:

- ◆ Becomes a U.S. citizen; or
- ◆ Earns credit for 40 quarters (about 10 years) of work history in the U.S., according to the Social Security Administration, either through his/her own work or the work of a spouse or parent; or
- ◆ Leaves the U.S. permanently; or
- ◆ Dies.

Where Can I Find More Information on Affidavits of Support, Deeming, and Public Charge?

- ◆ "INS Guidance on Public Charge: When Is it Safe to Use Public Benefits?" (California Immigrant Welfare Collaborative), www.nilc.org/ciwc/ciwc_ce/pubchgce_9-22-04.PDF.

- ◆ "Questions and Answers: Public Charge" (USCIS, May 25, 1999), www.uscis.gov/files/article/public_cqa.pdf.*
- ◆ "Affidavits of Support on Behalf of Immigrants: Final Rule" (federal regulations, USCIS & EOIR, June 21, 2006), <http://a257.g.akamaitech.net/7/257/2422/01jan20061800/edocket.access.gpo.gov/2006/pdf/06-5522.pdf>.†
- ◆ "Consolidation of Policy Regarding USCIS Form I-864, Affidavit of Support (AFM Update AD06-20)" (USCIS interoffice memo, June 27, 2006), www.uscis.gov/files/pressrelease/AffSuppAFM062706.pdf.†
- ◆ "How Do I File an Affidavit of Support for a Relative" (USCIS web page), www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=6a096c854523d010VgnVCM10000048f3d6a1RCRD&vgnnextchannel=4f719c7755cb9010VgnVCM10000045f3d6a1RCRD.†
- ◆ "General Information & Frequently Asked Questions: Affidavit of Support (Form I-864)" (U.S. Dept. of State), <http://travel.state.gov/pdf/I-864GenInfo-FAQ-Final.pdf>.*
- ◆ "Eligibility Determination Guidance: Non-Citizen Requirements in the Food Stamp Program" (U.S. Dept. of Agriculture, Jan. 2003), www.fns.usda.gov/fsp/rules/Legislation/pdfs/Non_Citizen_Guidance.pdf.
- ◆ "Temporary Assistance for Needy Families: Program Instruction: Deeming of Sponsor's Income and Resources to a Non-Citizen" (U.S. Dept. of Health and Human Services, April 17, 2003, No. TANF-ACF-PI-2003-03), www.acf.dhhs.gov/programs/ofa/pi2003-3.htm.
- ◆ *Guide to Immigrant Eligibility for Federal Programs*, 4th ed. (National Immigration Law Center, 2002), order form available at www.nilc.org/pubs/Guide_promo.htm, updates available at www.nilc.org/pubs/Guide_update.htm.

* Link updated Mar. 22, 2007. † Resource and link added Apr. 17, 2007.

For Help, Call—	
Or Call—	
<p>LOS ANGELES</p> <p>Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA) 888/624-4752 Spanish/English</p> <p>Asian Pacific American Legal Center (APALC) 800/867-3126 Khmer 800/867-3640 Korean 800/520-2356 Mandarin/Cantonese 800/267-7395 Vietnamese</p>	<p>NORTHERN CALIFORNIA</p> <p>Services, Immigrant Rights, and Education Network (SIREN) 408/453-3017 Spanish 408/453-3013 English/Vietnamese</p>