



Frequently Asked Questions: TPS Eligibility and the Application Process

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This FAQ provides answers to commonly asked Temporary Protected Status (TPS) questions. This resource is not country-specific and provides information on eligibility issues more generally. Refer to country-specific Federal Register Notices (FRNs) for additional details.

BACKGROUND

What is Temporary Protected Status (TPS)?

TPS is an immigration status granted to eligible nationals of a designated country or persons without nationality who last habitually resided in that country. Under Immigration and Nationality Act (INA) § 244, the Secretary of the Department of Homeland Security (DHS) may designate a country for TPS based on an emergency, such as an ongoing armed conflict or environmental disaster, that temporarily prevents nationals who are in the United States from returning safely to the designated country. TPS beneficiaries who register by the specified date¹ are eligible to remain in the United States during the TPS designation period and receive temporary protection from deportation. They may also apply for employment authorization and a travel authorization document during their grant of TPS. DHS makes initial TPS designations for a period of six to 18 months.

What countries are currently designated for TPS?

The seventeen countries designated as of the date of this FAQ are: Afghanistan, Burma (Myanmar), Cameroon, El Salvador, Ethiopia, Haiti, Honduras, Lebanon, Nepal, Nicaragua, Somalia, South Sudan, Sudan, Syria, Ukraine, Venezuela, and Yemen. Countries designated for TPS are subject to change as designations may be added or terminated. The U.S. Citizenship and Immigration Services (USCIS) updates information regarding TPS designations on its [website](#).

¹ USCIS may accept late initial registrations and re-registration applications under certain circumstances that are discussed in this FAQ.

ELIGIBILITY

Who is eligible for TPS?

To qualify for TPS, an applicant must be a national of a country designated for TPS or a noncitizen with no nationality who last habitually resided in such a country. He or she must also prove continuous residence and continuous physical presence² in the United States as of the dates specified for a particular country's designation. For instance, an applicant for TPS under Venezuela's March 9, 2021, designation must show continuous residence since March 8, 2021, and continuous physical presence since March 9, 2021. Information regarding country-specific eligibility requirements – specifically, the continuous residence and physical presence dates – is found on the [USCIS website](#). Absences that are “brief, casual and innocent” do not prevent applicants from showing continuous residence or continuous physical presence. Likewise, a brief temporary trip abroad required because of an emergency or extenuating circumstances outside the applicant's control will not break continuous residence. See 8 CFR § 244.1.

The applicant must apply within the relevant registration period unless he or she qualifies for late initial registration. An otherwise eligible individual is disqualified from TPS if he or she:

- Has been convicted of any felony or two or more misdemeanors committed in the United States;
- Is found inadmissible as an immigrant under the applicable INA § 212(a) grounds, including non-waivable criminal and security-related grounds; or
- Is subject to any of the mandatory bars to asylum, found at INA § 208(b)(2)(A).

Which inadmissibility grounds apply to TPS applicants? Which of those can be waived?

TPS applicants must demonstrate that they are admissible. However, as provided in INA § 244(c)(2) and corresponding regulations, and based on USCIS policy, certain grounds of inadmissibility do not apply to TPS applicants, while others may be waived.

Grounds of inadmissibility that do not require a waiver. According to the Instructions to the I-601, Application for Waiver of Grounds of Inadmissibility, USCIS does not require a waiver for the following grounds: public charge, INA § 212(a)(4); the labor certification grounds, 212(a)(5)(A); documentation requirements, 212(a)(7); being present without admission or parole, 212(a)(6)(A); stowaways, 212(a)(6)(D); student visa violators, 212(a)(6)(G); those previously removed and seeking admission,

² These terms are defined in the regulations at 8 CFR § 244.1(3).

212(a)(9)(A); unlawful presence, 212(a)(9)(B); and those unlawfully present after previous immigration violations, 212(a)(9)(C).

Criminal and security-related grounds that cannot be waived. The following grounds cannot be waived: crimes involving moral turpitude, INA § 212(a)(2)(A)(i)(I); controlled substance violations, except for a single offense of simple possession of 30 grams or less of marijuana, 212(a)(2)(A)(i)(II); multiple criminal convictions, 212(a)(2)(B); controlled substance trafficking, 212(a)(2)(B); general security related grounds, 212(a)(3)(A); terrorist activities, 212(a)(3)(B); adverse foreign policy consequences, 212(a)(3)(C); membership in totalitarian party, 212(a)(3)(D); and grounds relating to Nazi persecution, genocide, or the commission of any act of torture or extrajudicial killing, 212(a)(3)(E).

The remaining inadmissibility grounds may be waived for humanitarian purposes, to assure family unity, or when it is in the public interest. A waiver granted for TPS is valid only in the TPS context. Certain grounds of inadmissibility that do not apply to TPS applicants may still apply to TPS beneficiaries who seek an immigration benefit other than TPS.

What are the mandatory bars to asylum and why are they relevant to TPS?

INA § 244(c)(2) references the mandatory bars to asylum and incorporates them as a bar to TPS eligibility. A noncitizen who is subject to a mandatory bar to asylum, found at INA § 208(b)(2)(A), cannot qualify for TPS. These bars apply to a person who:

- Ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion;
- Has been convicted by a final judgment of a “particularly serious crime” (which includes an aggravated felony) that constitutes a danger to the community of the United States;
- DHS has reasons for believing has committed a serious nonpolitical crime outside the United States prior to arrival in the United States;
- DHS determines, based on reasonable grounds, is a danger to the security of the United States;
- Has engaged in or incited terrorist activity, as described in INA §§ 212(a)(3)(B)(i) or 237(a)(4)(B); or
- Is considered firmly resettled in a third country prior to arriving in the United States. For more on firm resettlement, see below.

Can a dual national of a TPS-designated country and another country qualify for TPS?

Dual nationality is not necessarily a bar to TPS if the applicant is able to prove that he or she is a national of a TPS designated country or is a person without any nationality

who last habitually resided in a TPS designated country.³ Dual nationality can sometimes indicate that an individual has firmly resettled in a third country. Dual nationals may consider including arguments that, despite having dual nationality, the applicant has no significant ties to their other country of nationality.

Some AAO decisions have found that TPS was properly denied where a dual citizen claimed to be a national of a non-TPS country upon entry to the United States or when applying for a visa or other U.S. immigration benefit. In reaching these decisions, USCIS applied *Matter of Ognibene*, 18 I&N Dec. 425 (BIA 1983) to deny TPS applications where the applicant's "operative nationality" does not belong to a country designated for TPS.⁴ According to a [USCIS FAQ](#) published in 2021, it appears that USCIS is no longer applying this decision to TPS applicants who entered the United States with a visa granted to them as a national of their non-TPS designated country.⁵ Firm resettlement, discussed below, is another issue that may arise for dual nationals.

While dual nationality is not by itself disqualifying, clients who have previously applied for an immigration benefit using their non-TPS nationality may receive more scrutiny. Consider including arguments that, despite having applied for an immigration benefit using their non-TPS nationality, the applicant has proven that they are a national of a TPS designated country and has no significant ties to their other country of nationality. For more on this topic, see CLINIC's [practice pointer](#), "Temporary Protected Status: Navigating Removal Proceedings, Dual Nationality, and Asylum."

Does firm resettlement in a third country make my client ineligible for TPS?

A noncitizen is ineligible for TPS if he or she was "firmly resettled in another country prior to arriving in the United States." INA § 208(b)(A)(vi). Whether a noncitizen has received an offer of firm resettlement is a complex analysis and is highly case specific. USCIS has not published TPS- specific guidance on firm resettlement though USCIS has addressed questions about the issue in public engagements.⁶

³ See *USCIS Temporary Protected Status (TPS) Webinar Questions and Answers*, Aug. 25, 2021 AILA Doc. No. 21081232, available at: [Temporary Protected Status \(TPS\) Webinar Questions and Answers \(aila.org\)](#); *USCIS Questions and Answers, Designation of Syria for Temporary Protected Status*, March 29, 2012, available at: https://www.uscis.gov/sites/default/files/document/questions-and-answers/TPS_Syria_QAs_03-29-12.pdf

⁴ In *Ognibene*, the BIA held that in the case of a dual national, the nationality claimed or established at the time of entry into the United States must be regarded, for purposes of INA § 214, as the sole or operative nationality for the duration of their stay in the United States.

⁵ See *USCIS Temporary Protected Status (TPS) Webinar Questions and Answers*, Aug. 25, 2021 AILA Doc. No. 21081232, available at: [Temporary Protected Status \(TPS\) Webinar Questions and Answers \(aila.org\)](#).

⁶ *Id.*

A noncitizen is considered firmly resettled if, prior to arrival in the United States, he or she entered into another country with, or while in that country received an offer of, permanent resident status, citizenship, or some other type of permanent resettlement, unless he or she meets one of two exceptions. First, the noncitizen establishes that entry into the third country was a necessary consequence of flight from persecution, that he or she remained in that country only as long as was necessary to arrange onward travel, and he or she did not establish significant ties to that country. Second, an exception applies if the conditions of residence in that country were so substantially and consciously restricted by the authority of that country that he or she was not in fact resettled. 8 CFR § 208.15. Restrictive conditions factors include the type of housing and employment opportunities made available, country conditions, the ability to own property, travel and access education, as well as evidence of persecution or discrimination by the government of the third country.

Form I-821 asks applicants to provide information on the countries they have transited through and/or lived in after fleeing their home country and prior to arriving in the United States.

Applicants are instructed to provide the dates they were in those countries and describe any immigration status they may have had while in those countries. If the applicant has ever been offered an immigration status or citizenship in another country that they did not accept, they are asked to describe that status offer and explain why they did not accept it. ⁷According to USCIS, applicants it determines are barred by firm resettlement will receive a notice of intent to deny providing them an opportunity to respond before a denial notice is issued.⁸

For more on this topic, see CLINIC's [practice pointer](#), "Temporary Protected Status: Navigating Removal Proceedings, Dual Nationality, and Asylum."

May someone apply for TPS if they already hold some other lawful status or have an application for another status pending?

Yes. INA § 244(a)(5) provides that TPS cannot be denied on the basis of the applicant's immigration status, and a grant of TPS is not inconsistent with a grant of nonimmigrant or other status. Thus, someone in valid nonimmigrant status may apply for and be granted TPS. However, to continue to maintain nonimmigrant status while simultaneously holding TPS, the person must remain eligible for both statuses. USCIS

⁷ See Form I-821 Instructions at Part 2, Items 15.a - 15.d, and Part 7, Items 1.c - 7, available at

<https://www.uscis.gov/sites/default/files/document/forms/i-821instr.pdf>.

⁸ See USCIS *Temporary Protected Status (TPS) Webinar Questions and Answers*, Aug. 25, 2021 AILA Doc. No. 21081232, available at: [Temporary Protected Status \(TPS\) Webinar Questions and Answers \(aila.org\)](#).

has advised that “[I]t is up to the individual to know and understand the requirements of all statuses he/she holds or is seeking to obtain and/or maintain.”⁹ One important consideration is the impact of a decision to work using a TPS- based EAD. Before applying for work authorization, consider whether such employment would violate the terms of the person’s underlying nonimmigrant status. For example, B-2 visitors and F-1 students face limitations on employment. One option for some clients who would like to maintain their underlying nonimmigrant status would be either to file Form I-821 but not request an EAD, or to request the EAD but refrain from using it to work.

Under INA § 244(f)(4), a TPS beneficiary is considered to be “in and maintaining lawful nonimmigrant status” while they hold valid TPS. Thus, a nonimmigrant who obtains TPS and ends up losing their underlying nonimmigrant status may be able to revert to nonimmigrant status before their TPS expires or terminates. For example, an F-1 student who obtains TPS and subsequently loses F-1 may be able to switch back into F-1 – or even change into some other nonimmigrant status – as long as the Form I-539 or I-129 is filed while he or she remains in valid TPS.

May someone with a pending asylum application apply for TPS?

Yes. Applying for TPS, or being granted TPS, does not affect a pending asylum application. However, affirmative asylum applicants should consider their preferred strategy in the event that their asylum application is not granted by USCIS. Under 8 CFR § 208.14(c)(2), if someone has TPS (or other valid immigration status) at the time their affirmative asylum application is denied, USCIS cannot refer their asylum case to an immigration judge (IJ) for the claim to be reviewed *de novo*.¹⁰ Therefore, if the client has a weak asylum case that is unlikely to be granted by an IJ and does not have other relief available, it may be in his or her best interest to proceed with applying for TPS. However, those clients must understand that if they obtain TPS and USCIS then decides not to grant their affirmative asylum application, having TPS at the time of the decision would foreclose them from continuing to pursue their asylum claim in front of an IJ (or seeking another form of relief in immigration court).

Those who have a strong case for asylum may prefer not to apply for TPS until after the affirmative asylum application has been decided. The option to apply for TPS may

⁹ USCIS FAQs on Statelessness and the Ability to Work for Joint F-1/TPS, Sept. 3, 2015 AILA Doc. No. 15090306, available at: <https://www.aila.org/infonet/uscis-faq-joint-f-1tps-status-and-statelessness>.

¹⁰ Following an interview, an asylum officer can either approve an asylum application or determine the applicant has not demonstrated eligibility for asylum. In the latter case, the three options are for the asylum office to deny the application, refer it to an immigration judge, or dismiss it. Referral results in the asylum applicant being placed in removal proceedings where he or she may present the asylum claim again but this time to an immigration judge.

still be available if the registration period remains open or they qualify for late initial registration under 8 CFR § 244.2(f)(2). Generally, to qualify for late initial registration the client would need to apply for TPS during an extension of the designation for their country and within 60 days of their asylum denial.

Note that obtaining TPS status will “stop the clock” on the requirement to file for asylum within one year of arriving in the United States if the one-year clock has not already expired. See 8 CFR § 208.4(a)(5)(iv).

APPLICATION PROCESS

What is the application process for initial TPS?

Those who are eligible for TPS should file an initial application within the registration period that is specified for a particular country’s designation. Applicants should submit the following:

1. Form I-821 for each applicant, along with required fees or an I-912 fee waiver request. The filing fee for an initial TPS application is \$50. In addition, a \$30 biometrics fee is required.
2. Form I-765 for those who are requesting an Employment Authorization Document (EAD). For applicants filing paper applications by mail, the filing fee is \$520. For applicants filing online, the filing fee is \$470. A fee waiver is available for those who file by mail. Two passport-style photos should be included. Initial TPS EAD applicants should use EAD category code (a)(12).
3. Proof of identity and nationality of a TPS-designated country (passport; birth certificate and photo ID; or national identity document with photo and/or fingerprint).
4. Proof of date of entry to United States (passport or I-94).
5. Proof of continuous residence and continuous physical presence since the relevant dates for the designated country (employment records, rent receipts, utility bills, tax returns, school records, medical records, etc.).
6. If applicable, Form I-601, Application for Waiver of Grounds of Inadmissibility, and supporting documentation (although USCIS will also provide the opportunity to submit later, if not included with initial package), and
7. If applicable, certified court disposition related to any criminal arrest, charge or conviction.

At this time, the option to file Form I-821 online is available to initial and re-registration TPS applicants from all designated countries. Those seeking an EAD may

also concurrently file Form I-765 online.¹¹

Noncitizens who fail to apply during the initial registration period may be able to file a late initial application if they meet certain conditions, described in the section below

What evidence should applicants submit to demonstrate identity and nationality?

Primary evidence of identity and nationality includes a passport (valid or expired); a birth certificate, along with photo identification; and/or other nationality identity document with photograph and/or fingerprint.

If primary evidence is unavailable, an applicant may submit an affidavit explaining why the documents cannot be obtained, along with acceptable secondary evidence. Secondary evidence may include a naturalization certificate; baptismal certificate (if it indicates nationality or parents' nationality); copies of school, medical, or immigration records that include nationality; or affidavits from friends or family members who have close personal knowledge of the date and place of the applicant's birth or their parents' nationality.¹² TPS beneficiaries whose status has been extended by a current court injunction may submit evidence of their prior TPS approval and do not need to submit nationality and identify documentation again.¹³

According to recent USCIS public engagements, dual nationals may still be eligible for TPS as long as they can prove they are in fact a national of a TPS country, according to the laws of that country. Applicants who do not have proof of a qualifying nationality should contact the relevant embassy or consulate to determine what steps they can take to confirm their nationality.

What evidence can applicants submit to show continuous residence and continuous physical presence?

The [Instructions](#) to Form I-821 provide a non-exhaustive list of supporting documentation that may be included to prove continuous residence and continuous physical presence. Examples include employment records, rent receipts, utility bills, school records, medical records, birth certificates of children born in the United

¹¹ See USCIS website at: <https://www.uscis.gov/newsroom/alerts/all-temporary-protected-status-tps-applicants-may-now-file-forms-i-821-and-i-765-online>.

¹² See USCIS website at: <https://www.uscis.gov/newsroom/alerts/all-temporary-protected-status-tps-applicants-may-now-file-forms-i-821-and-i-765-online>.

¹³ See *USCIS Temporary Protected Status (TPS) Webinar Questions and Answers*, Aug. 25, 2021 AILA Doc. No. 21081232, available at: [Temporary Protected Status \(TPS\) Webinar Questions and Answers \(aila.org\)](#).

States, dated bank transactions, insurance policies, and vehicle registration. Applicants may use any relevant documentation, particularly records created during the course of ordinary business that include the applicant's name, address, and a date.

Can family members apply for TPS together?

There are no derivative benefits for TPS recipients. To qualify for TPS, each individual must satisfy the requirements for TPS independently and submit their own application. If submitting applications for multiple family members in one packet, USCIS recommends that a separate check for each application is included.

What are the requirements for late initial registration?

Those who fail to apply for TPS during the initial registration period may be eligible to file a late initial registration during any extension of their country's designation. To qualify, during the initial registration period or a subsequent initial registration period, the applicant must have:

- Been a nonimmigrant or been granted voluntary departure status or any relief from removal;
- Had an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal which was pending or subject to further review or appeal;
- Been a parolee or had a pending request for re-parole; or
- Be the spouse of an individual who is currently eligible for TPS.

The application for late registration must be filed while one of the above conditions still exists or within a 60-day period immediately following the expiration or termination of a status described above. In addition, someone who during the initial registration period or a subsequent initial registration period was a child of a noncitizen currently eligible for TPS may also apply for late registration. There is no time limitation on filing if you meet this condition. "Child" refers to someone who was under 21 and unmarried at any time during an initial registration period. In all cases, the applicant seeking to register late must satisfy the other TPS eligibility requirements. See 8 CFR § 244.2(f)(2) and (g) and the [USCIS webpage on TPS](#).

What is the process for a TPS holder applying to re-register for TPS?

Every time DHS announces the extension of the TPS designation for a particular country, TPS recipients from that country must apply to re-register. Likewise, TPS holders must re-register when a country's TPS designation is terminated, but DHS extends TPS for a transitional period before the termination takes effect. The re-registration period is typically 60 days and is specified for each country on the [USCIS TPS webpage](#).

Re-registration applications should include the following:

1. Form I-821. There is no application fee. However, applicants must include a \$30 biometrics fee or a request for a fee waiver.
2. Proof of identity.
3. Other evidence previously submitted is not required (e.g., proof of nationality and residence).
4. If applicable, Form I-601 and supporting documentation for any inadmissibility ground that was not previously waived in connection with their TPS.
5. Form I-765 for those who are requesting a new EAD. The application fee is \$470 if filing online and \$520 if filing by paper. A fee waiver may be requested.

Those submitting first-time re-registrations with USCIS after an immigration judge or the Board of Immigration Appeals has granted TPS should include a copy of that decision with their Form I-821. Practitioners should follow the specific guidance in the I-821 instructions.

May someone with a pending asylum application apply for TPS?

Yes. An application for TPS does not affect a pending application for asylum or any other immigration benefit. It is possible to be both a pending asylum applicant and a TPS beneficiary at the same time. However, there is an important consideration for someone with TPS and an affirmative asylum application pending at the USCIS Asylum Office. Having TPS does not impact the asylum officer's ability to approve the asylum application. But, if following the interview, the asylum officer decides not to grant asylum, 8 CFR § 208.14(c)(2) requires the officer to deny the application when the applicant is maintaining valid immigrant status, nonimmigrant status, or TPS at the time the application is decided. In contrast, if the applicant is without lawful status, their asylum case will be referred to an immigration judge who can review the asylum claim *de novo*.^[1] If the applicant is covered by Deferred Enforced Departure (DED) when the asylum officer decides not to grant asylum, the application will be referred to the immigration judge (instead of being denied) since DED is not considered to be a status under 8 CFR § 208.14(c)(2). Depending on the individual asylum case, being denied at USCIS instead of referred to court could be beneficial or detrimental. If the client has a weak asylum case that is not likely to be granted by an immigration judge and does not have other relief available, it may be in his or her best interest to have TPS. On the other hand, if TPS is granted and the client wants to continue to pursue asylum (or another form of relief) in front of an immigration judge, that option would be foreclosed. Those who have a strong case for asylum may decide to refrain from

filing for TPS until the asylum application has been decided and later to apply for TPS under the late initial registration guidelines at 8 CFR § 244.2(f)(2), assuming the current TPS designation for Haiti is extended beyond Feb. 3, 2026. The client would need to apply for TPS during that extension period and within 60 days of their asylum denial. Once the initial TPS registration deadline of Feb. 3, 2026, has passed, if their asylum application is denied more than 60 days before an extension of TPS for Haiti is announced, they would not be eligible for late initial registration.^[3]

Note that TPS status will “stop the clock” on the requirement to file for asylum within one year of arriving in the United States if the one-year clock has not already expired. See 8 CFR § 208.4(a)(5)(iv).

May someone file a late re-registration application if he or she missed the most recent re- registration period for their country?

Timely re-registration during each re-registration period is required for a recipient to maintain TPS benefits. However, under INA § 244(c)(3)(C) and 8 CFR § 244.17, USCIS has the discretion to accept and approve a late re-registration application when the applicant has “good cause” for filing after the end of the relevant re-registration period. Applicants must submit with the re- registration application a letter that explains the reason(s) for filing late.

USCIS has not published guidance about the types of reasons that constitute “good cause.”¹⁴ Anecdotally, applicants have had late re-registration applications granted in situations where the applicant failed to re-register on time because of serious physical or mental illness or sudden hospitalization (of the applicant or a close relative the applicant cared for). Good cause might be established by an applicant who sought timely assistance or advice about maintaining TPS but was misinformed through no fault of their own. Other factors that could potentially contribute to a finding of good cause might include unemployment, homelessness, a death in the family, or other personal emergencies; or the inability to understand the re-registration requirements due to mental capacity, language barriers, or lack of access to legal resources. For more information, consult CLINIC’s [“FAQs on Late Re- registration for TPS.”](#)

¹⁴ Late re-registrants from El Salvador, Haiti, Honduras, Nepal, Nicaragua, and Sudan who missed the deadline because of the TPS termination announcement for their country should explain how the termination decision impacted their failure to re-register on time. See: <https://www.uscis.gov/humanitarian/update-on-ramos-v-nielsen> and <https://www.uscis.gov/humanitarian/temporary-protected-status/update-on-bhattarai-v-nielsen>.

May someone in removal proceedings or with an outstanding removal order apply for TPS?

USCIS has jurisdiction over initial TPS and re-registration applications from clients in removal proceedings unless the basis of the Notice to Appear (NTA), if established, would make the individual ineligible for TPS on the basis of a criminal or security-related inadmissibility ground that cannot be waived. See 8 CFR §§ 244.7(d), 1244.7(d). In that instance, the Executive Office for Immigration Review decides TPS eligibility during removal proceedings.

Having a removal order is not a bar to TPS eligibility. While a grant of TPS does not eliminate the removal order, it prevents DHS from removing the TPS holder while they remain in valid TPS status. For more discussion, see CLINIC's [practice pointer](#) "Temporary Protected Status: Navigating Removal Proceedings, Dual Nationality, and Asylum."

Does someone with TPS accrue unlawful presence?

No. A TPS beneficiary is considered to be in lawful nonimmigrant status for the duration of the TPS grant and does not accrue unlawful presence for purposes of INA §§ 212(a)(9)(B) and 212(a)(9)(C)(i)(I). The period of authorized stay begins on the date the TPS application is filed, provided it is ultimately approved, and continues until TPS status is terminated. However, a grant of TPS does not erase any unlawful presence accrued before TPS was approved.¹⁵

BENEFITS

Can TPS holders travel abroad and re-enter the United States?

A TPS holder must obtain a TPS travel authorization document¹⁶ prior to departing the United States to avoid breaking the continuous physical presence requirement for maintaining TPS. A valid travel document also demonstrates that the TPS holder has permission to reenter the United States. Issuance of a travel document by USCIS does not guarantee reentry to the United States. Customs and Border Protection (CBP) inspects returning TPS recipients at the port-of-entry and has the discretion to find someone inadmissible under INA § 212(a) or otherwise deny entry. USCIS advises TPS holders who simultaneously hold a nonimmigrant status to obtain a TPS travel

¹⁵ See USCIS Adjudicator's Field Manual, Chapter 40.9.2.

¹⁶ In the past, USCIS issued advance parole travel documents to TPS recipients. Starting July 1, 2022, USCIS began authorizing travel using Form I-512T, Authorization for Travel by a Noncitizen to the United States.

document instead of relying on a nonimmigrant visa to travel.¹⁷

Clients with a pending or approved I-821 can apply for a travel document by filing Form I-131. These cannot be filed online; a paper application is required. Concurrently filed Forms I-821 and I-131 should be sent to the address listed on the USCIS TPS page for a specific country. Those who are applying for travel authorization separately based on a pending or approved I-821 should check the USCIS page for [Direct Filing Addresses for Form I-131](#). The \$630 filing fee for the I-131 cannot be waived. If the request is approved, USCIS will issue an I-512T travel document. Upon returning to the United States with the I-512T, the returning TPS holder will be admitted into the United States.

Is there any employment authorization flexibility for F-1 students seeking TPS?

Yes. 8 CFR § 214.2(f)(9) allows DHS to suspend certain F-1 regulatory requirements for students from a designated country who are experiencing severe economic hardship due to conditions in that country. Under [Special Student Relief \(SSR\)](#), these students may request employment authorization, work an increased number of hours while studying, and reduce their course load while continuing to maintain F-1 status. For instance, DHS temporarily [suspended](#) certain employment-related requirements for Haitian F-1 students who were present in the United States as of August 3, 2021 and experiencing severe economic hardship based on the current crisis in Haiti. A list of currently designated countries is available at <https://www.ice.gov/sevis/whats-new>.

F-1 students who are eligible for TPS and SRR have the option of applying for an EAD through SSR or through TPS. However, practitioners should consult the relevant Federal Register Notice for specific guidance and applicants will need to coordinate with their Designated School Official.

Does TPS lead to a path to permanent residence?

No, a grant of TPS does not put anyone on a path to lawful permanent resident status. However, TPS may help beneficiaries of immediate relative petitions and others become eligible to adjust status under INA § 245(a), even when they initially entered the United States without being inspected and admitted or paroled. More information is available in CLINIC's [Practice Advisory on Adjustment Options for TPS Beneficiaries](#).

¹⁷ See USCIS *Temporary Protected Status (TPS) Webinar Questions and Answers*, Aug. 25, 2021 AILA Doc. No. 21081232, available at: [Temporary Protected Status \(TPS\) Webinar Questions and Answers \(aila.org\)](#)

DENIALS

What if a TPS application is denied?

The USCIS Administrative Appeals Office (AAO) may review the denial of an application for TPS unless the basis for the denial is an unwaivable ground of inadmissibility or deportability that disqualifies the applicant from TPS eligibility. In that case, 8 CFR § 244.10(a)(1) requires USCIS to issue an NTA with the denial and there is no right to appeal. Those applicants have the right to a *de novo* determination of TPS eligibility in removal proceedings or before the BIA. See INA §244(b)(5)(B), 8 CFR § 244.11. TPS-related employment authorization is extended during the pendency of removal proceedings or administrative appeal. 8 CFR § 244.12(d). Note that the filing of an NTA does not preclude the applicant from filing a motion to reopen or reconsider with USCIS.

OTHER RESOURCES

Where can I find additional information about TPS?

- INA § 244
- 8 CFR § 244
- 8 CFR § 1244
- Federal Register Notices for TPS-designated countries, available on [USCIS TPS webpage](#)
- [USCIS Website](#)
- Instructions to Forms [I-821](#) and [I-765](#)
- Notes and slides from USCIS public engagements on TPS, available the [USCIS Electronic Reading Room](#)