TPS for Afghans and the One-Year Asylum Filing Deadline
Meet Our Presenters

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USCCB Migration & Refugee Services

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Catholic Legal Immigration Network, Inc. (CLINIC)
Today’s Roundtable Agenda

1. AAA Efforts
2. TPS for Afghans
3. 1-Year Asylum Filing Deadline
4. Q&A
**Zoom Features**

1. **Chat**
2. **Q&A**
3. **Raise Hand**

Interact with presenters and attendees by:

- Typing into the chat box
- Asking questions in the Q&A
- Raising your hand

Webinar will be recorded and shared on USCCB’s APA Legal Resource Library: BRYCS.org/APAlegal
Afghan Adjustment Act

Has been requested by the Administration on two separate occasions

What would adjustment legislation do for Afghans with parole?

What could happen if Congress doesn’t pass this legislation?
Afghan Adjustment Act

Current status of adjustment legislation:
- Not yet introduced nor is it expected to be called the Afghan Adjustment Act
- Bipartisan support in both chambers of Congress
- More likely to pass as part of a larger measure, rather than a standalone bill

How can someone help advocate for this legislation?
- Ensure you are signed up for updates from Justice for Immigrants

justiceforimmigrants.org
Today’s Instructor

Elizabeth Carlson
• Senior Attorney
• CLINIC (www.cliniclegal.org)
Asylum One Year Filing Deadline and Exceptions
Statute and Regulations on One Year Filing Deadline

• Application for asylum must be filed within one year after arrival in the United States, INA § 208(a)(2)(B) and 8 CFR § 208.4

• However, numerous exceptions in the regulations for “changed” or “extraordinary” circumstances
  • Even if not expressly listed in the regulations, can still argue for “changed” or “extraordinary” circumstances.

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What Regulations Say About Changed Circumstances

• (A) Changes in country conditions in the applicant's country of nationality;

• (B) Changes in the applicant's circumstances, including changes in applicable U.S. law and activities the applicant becomes involved in outside the country;

• (C) If previously included as a dependent, loss of spousal or parent-child relationship through marriage, divorce, or death.
What Regulations Say About Extraordinary Circumstances

• (i) Serious illness or mental or physical disability;
• (ii) Legal disability;
• (iii) Ineffective assistance of counsel:
• (v) The applicant filed for asylum but application rejected and refiled;
• (vi) The death or serious illness or incapacity of the applicant’s legal representative or a member of the applicant's immediate family.
Maintaining Status– An Extraordinary Circumstance

(i)(v) Applicant maintained **Temporary Protected Status**, lawful immigrant or nonimmigrant status, or was given **parole**, until a reasonable period before the filing of the asylum application

**DEADLINE EXTENDED**

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Exception Plus Filing Within a Reasonable Period

For any changed or extraordinary circumstances, need to show you filed within a “reasonable period” – generally less than six months.

Suggested Language for Your Cover Letter

The bar to asylum based on the one-year filing deadline does not apply to Mr. X. Mr. X entered the United States on August 30, 2021, pursuant to a grant of humanitarian parole, valid until August 29, 2023. Mr. X has maintained valid parole since that time. Please find copy of valid parole document attached. Although Mr. X is filing his application for asylum more than one year after his entry to the United States, the regulations specifically include holding lawful status or parole as an extraordinary circumstance that excuses failure to apply for asylum within one year of last entry. 8 CFR § 208.4(a)(5)(iv). USCIS has recognized this exception as applicable to Afghans evacuated pursuant to Operation Allies Welcome, see https://www.uscis.gov/humanitarian/information-for-afghan-nationals. As such, the one-year filing deadline is not at issue in this case.
How to Answer the I-589

5. Are you filing this application more than 1 year after your last arrival in the United States?

☐ No       ☒ Yes

If "Yes," explain why you did not file within the first year after you arrived. You must be prepared to explain at your interview or hearing why you did not file your asylum application within the first year after you arrived. For guidance in answering this question, see Instructions, Part I. Filing Instructions, Section V. Completing the Form, Part C.

I entered the United States on August 30, 2021. At the time I entered, I was granted a two-year parole, valid until August 29, 2023. Since I have entered the United States, I have maintained valid parole status and it has not been terminated. [I have also recently applied for Temporary Protected Status.]

Although I am filing my asylum application late, I am eligible for an exception to the one-year filing deadline because I have maintained valid parole status.
Other Considerations on Deadline

• Don’t want an interruption in work authorization
  • If do not have resources to file for asylum, perhaps can help with TPS

• Want client to be in valid status to get the benefit of a NOID
  • Again, TPS can be helpful here

• Conditions can change
  • Country conditions improve, or evidence gathering becomes more difficult
Temporary Protected Status
Temporary Protected Status

• DHS announced designation of TPS for Afghanistan
• INA § 244(c); 8 CFR § 244.2 – 244.4
• Only applicants who can show continuous residence since March 15, 2022 and continuous physical presence since May 20, 2022 will be eligible
  • Exception for brief, casual, and innocent absence
• Registration period runs from May 20, 2022 to November 20, 2023
• 87 FR 30976

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Ineligible for TPS if

• Convicted of any felony or 2 or more misdemeanors;
• Found inadmissible under applicable INA §212(a) grounds and not eligible for a waiver
  • 212(a) (4), (5)(A) and (B), and 7(A)(i) do not apply
  • Certain criminal and security-related grounds cannot be waived
• Subject to any of the mandatory bars to asylum under INA §208(b)(2)(A)
TPS Application Process

• Apply during registration period (or qualify for late initial filing)
• File I-821 w filing fees, or I-912 Request for Fee Waiver. Include evidence to prove:
  • Identity and Afghan Nationality (passport or tazkera)
  • I-94 Arrival-Departure Record; employment records; rent receipts; utility bills; bank statements; religious organization attestations; money order receipts; affidavits; birth certificate of children born in U.S.; Social Security card
  • Date of entry to U.S. and continuous residence

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TPS Application Process (Continued)

• Include certified court dispositions, if ever arrested
• Include Form I-601 to waive applicable inadmissibility ground(s), if needed
• If EAD desired, include I-765 w/ filing fee or I-912
• 2 passport photos
• Check USCIS TPS-Afghan page for correct filing address. Can file online
• https://www.uscis.gov/humanitarian/temporary-protected-status/temporary-protected-status-designated-country-afghanistan
# Fees for TPS

<table>
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<tr>
<th>The Applicant Is</th>
<th>Applicant's Age</th>
<th>I-821 Fee</th>
<th>Biometric Services</th>
<th>I-765 Fee</th>
<th>Total</th>
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<td>Submitting their first TPS application and requesting an EAD</td>
<td>Younger than 14</td>
<td>$50</td>
<td>$0</td>
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<td>$50</td>
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<td>14-65 years old</td>
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<td>$85</td>
<td>$410</td>
<td>$545</td>
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<td>66 and older</td>
<td>$50</td>
<td>$85</td>
<td>$0</td>
<td>$135</td>
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<tr>
<td>Submitting their first TPS application and are not requesting an EAD</td>
<td>Younger than 14</td>
<td>$50</td>
<td>$0</td>
<td>N/A</td>
<td>$50</td>
</tr>
<tr>
<td></td>
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<td>$50</td>
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</tbody>
</table>
Fee Waivers

• File on Form I-912
• If you are requesting a fee waiver, cannot file online
• It will take longer to get a receipt if requesting a fee waiver
Applying for a Fee Waiver

• Receipt of a means-tested benefit- easiest basis for fee waiver.
  • Include proof of Medicaid, SNAP (food stamps), TANF, or SSI.
  • Spouse and child can qualify for a fee waiver based on a spouse/parent.

• Income at or below 150% of federal poverty guidelines
  • https://www.uscis.gov/i-912p
  • Copies of tax returns

• Financial hardship
  • Can be challenging to get a fee waiver on this basis but homelessness or living in a domestic violence shelter can help a person qualify
Does my client need TPS?

• Think about strategy for your particular clients keeping in mind:
  • TPS, like parole, is an extraordinary circumstance to excuse late asylum filing
  • A TPS holder will not be referred to immigration court
  • TPS is a lawful nonimmigrant status
  • No announced re-parole process for Afghans
  • TPS is often extended

• No real downside but a client who already has COM approval may not need to register.
CLINIC Resources

- [https://cliniclegal.org/toolkits/assistance-afghans](https://cliniclegal.org/toolkits/assistance-afghans)
  - FAQs on TPS for Afghans
  - Screening Tool
  - TPS Cover Letter/Checklist

- [https://cliniclegal.org/find-legal-help/ask-experts](https://cliniclegal.org/find-legal-help/ask-experts) (CLINIC affiliates only)
Thank You!

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