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Continuity of Work Authorization for Afghans



Meet Our Presenters



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Today's Agenda

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Parole and Continuity of Employment Authorization

2

Legislative Efforts for Afghan Parolees

3

Q&A with USCCB and CLINIC

Webinar will be recorded and shared on
USCCB's Afghan Legal Resource Library:
BRYCS.org/APALegal

Parole and Continuity of Employment Authorization

cliniclegal.org

Agenda

- Overview of Employment Authorization Documents (EADs) and Afghan Parolees
- Ensuring continuity of employment authorization
 - EADs based on pending asylum
 - EADs based on pending adjustment
 - EADs based on Temporary Protected Status

Employment Authorization Documents

- An EAD is critical to our clients' ability to support themselves and their families.
- Many categories of noncitizens are eligible for EADs.
- An application for an EAD is filed on Form I-765 available at www.uscis.gov



Regulations Governing Employment Authorization

- The regulations at 8 C.F.R. § 274a.12 govern employment authorization in the United States.
- Certain categories are authorized to work incident to status
- Certain categories are authorized to work with a certain employer, such as H-1B, L-1, O-1 or R-1 status holders
- Certain categories must apply for employment authorization



Renewals / Automatic Extensions

- Certain categories eligible for automatic extensions:
 - File I-765 to renew EAD prior to the expiration of the current EAD
 - Renewal must be in same eligibility category as current EAD to get the automatic extension
- Automatic extension of EAD for 540 days based on Temporary Final Rule published in May 2022
- Present the Form I-797C receipt notice together with the expired EAD to employer

How does this relate to Afghans?

- Afghan parolees cannot work “incident to status” – they must have a valid employment authorization in hand in order to work.
- As of now, there is no announced re-parole process and no way to renew an EAD based on parole.
- Switching an EAD to another category means they will need to have the new EAD in hand in order to continue to work.
- Need to start planning **now** to avoid a gap in employment authorization.

Asylum Applicants

- Eligible under 8 C.F.R. 274a.12(c)(8)
- Waiting period is 150 days after filing of asylum application (minus any period of applicant-caused delay)
- No fee for initial EAD based on pending asylum; renewals require a fee or fee waiver.
- Regulations require agency do adjudicate I-589 based on asylum within 30 days of filing.
 - If not complying with deadline, submit inquiry under the Rosario class action webpage: <https://www.uscis.gov/laws-and-policy/other-resources/class-action-settlement-notice-and-agreements/rosario-class-action>

Adjustment of Status Applicants

- Pending adjustment applicants eligible under 8 C.F.R. 274a.12(c)(9)
- File for EAD together with I-485 or separately with I-485 receipt notice
 - No additional fee for I-765 if paid I-485 fee (SIV applicants)
 - If I-485 fee not paid, will need to pay I-765 fee or seek fee waiver
- Once I-485 approved, lawful permanent residents authorized to work incident to status

Temporary Protected Status

- Work authorization mandated under INA § 244(a)(1)(B) and (2); 8 CFR § 244.12(a)
- EAD categories (a)(12) and (c)(19)
- Afghanistan – Registration period from May 20, 2022 – Nov. 20, 2023
 - Continuous Residence: March 15, 2022
 - Continuous Physical Presence: May 20, 2022
 - May file I-765 with I-821 or at a later time
- Reminder: Automatic extensions only for renewal EADs

Fees for TPS

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

CLINIC Resources

- <https://cliniclegal.org/toolkits/assistance-afghans>
 - FAQs on TPS for Afghans
 - FAQs on continuity of employment authorization
 - Screening Tool
 - TPS Cover Letter/Checklist
- <https://cliniclegal.org/find-legal-help/ask-experts> (CLINIC affiliates only)

Ongoing Legislative Efforts

USCCB Migration & Refugee Services

Afghan Adjustment Act (S. 4787/H.R. 8685)

- Bipartisan introduction in August
- Subject to certain conditions, creates a pathway to lawful permanent resident status for Afghan nationals/habitual residents who fall into one of the following categories:
 - Inspected and admitted to the United States on or before enactment
 - Paroled into the United States between July 30, 2021, and enactment
 - Had their travel to the United States facilitated by the U.S. government
 - Found by the U.S. government to have supported the U.S. mission in Afghanistan
- 117th Congress ends on January 3, 2023
- All bills introduced during this Congress that have not been passed by both the House and Senate by this date will need to be reintroduced in the 118th Congress (beginning January 4)
- USCCB action alert: bit.ly/3TjHcvb

Resources

USCCB Migration & Refugee Services

- **Sign up for the Biweekly Review** from the USCCB's Justice for Immigrants coalition to stay informed about this and other migration-related issues, as well as advocacy opportunities in support of legislation such as the Afghan Adjustment Act: bit.ly/3CSEIIM
- **JFI Afghanistan Resource Page:** justiceforimmigrants.org/Afghanistan
- **Afghan Legal Resource Library:** brycs.org/apalegal



Thank you!



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brycs.org/APAlegal

JFI Afghanistan Resource Page
justiceforimmigrants.org/afghanistan

CLINIC Afghan Assistance Toolkit
cliniclegal.org/toolkits/assistance-afghans