Continuity of Work Authorization for Afghans
Meet Our Presenters

Elizabeth Carlson  
Senior Attorney  
Catholic Legal Immigration Network, Inc. (CLINIC)

Illisa Mira  
Senior Attorney  
Catholic Legal Immigration Network, Inc. (CLINIC)

David Spicer  
Senior Policy Advisor  
USCCB Migration & Refugee Services
Today's Agenda

1. 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
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-notices-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

<table>
<thead>
<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>
</tr>
</thead>
<tbody>
<tr>
<td>Submitting their first TPS application and requesting an EAD</td>
<td>Younger than 14</td>
<td>$50</td>
<td>$0</td>
<td>$0</td>
<td>$50</td>
</tr>
<tr>
<td></td>
<td>14-65 years old</td>
<td>$50</td>
<td>$85</td>
<td>$410</td>
<td>$545</td>
</tr>
<tr>
<td></td>
<td>66 and older</td>
<td>$50</td>
<td>$85</td>
<td>$0</td>
<td>$135</td>
</tr>
<tr>
<td>Submitting their first TPS application and are <strong>not</strong> 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>
<td>14 and older</td>
<td>$50</td>
<td>$85</td>
<td>N/A</td>
<td>$135</td>
</tr>
</tbody>
</table>
CLINIC Resources

• [https://cliniclegal.org/toolkits/assistance-afghans](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](https://cliniclegal.org/find-legal-help/ask-experts) (CLINIC affiliates only)
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/3CSElM](https://bit.ly/3CSElM)

• JFI Afghanistan Resource Page: [justiceforimmigrants.org/Afghanistan](https://justiceforimmigrants.org/Afghanistan)

• Afghan Legal Resource Library: [brycs.org/apalegal](https://brycs.org/apalegal)
Thank you!

USCCB Afghan Legal Resource Library
brycs.org/APAlegal

JFI Afghanistan Resource Page
justiceforimmigrants.org/afghanistan

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