



Immigration Options for Afghan Parolees Without an Afghan Adjustment Act

FAQ

January 2023

Introduction

Afghans paroled into the US following the fall of the Afghan government in July 2021 have faced much uncertainty about their ability to remain permanently and rebuild their lives in the US. Much has been said about a possible “Afghan Adjustment Act” (AAA) that many hoped would provide a clear pathway to Lawful Permanent Resident status (a “green card”) for Afghan evacuees. Unfortunately, there has been a lot of misleading or incorrect information circulating, leading to fear and alarm among many in the Afghan community. This FAQ is intended to clear up some of the confusion surrounding the Afghan Adjustment Act so that Afghans will better understand their current immigration options.

What happened to the proposed Afghan Adjustment Act?

- On December 22nd, 2022, the U.S. Senate passed the Fiscal Year 2023 Budget Omnibus Bill. Advocates were hoping that the bill would include the AAA so that Afghan parolees would be able to obtain Lawful Permanent Resident (LPR) status (a green card) before their humanitarian parole expires later in 2023. Unfortunately, the **AAA was not included in the budget bill and was not signed into law.**

What does it mean that the AAA was not signed into law?

- **The failure of Congress to pass the AAA does not change the existing options for Afghan parolees.** Currently, Afghan parolees can only obtain LPR status if they qualify as Special Immigrants or SIVs (based on their work for or on behalf of the US mission in Afghanistan) or if they have an eligible LPR or US citizen family member who can petition for them.

What if I can't apply for LPR status as a Special Immigrant (SIV) or through a family member?

- Afghan parolees who cannot apply for SIV or family based LPR status before their parole period expires must apply for asylum, Temporary Protected Status (TPS) or another form of relief to avoid becoming unlawfully present and losing their work authorization. Legal advocates are also seeking guidance about another option, Re-Parole, but it is unclear at this time whether re-parole will be available for Afghans.

What is asylum?

- Asylum is a form of protection available to those at risk of serious harm in their home country who have come to the US in search of safety. People granted asylum are authorized to work, and one year after they have been granted asylum, they may apply for LPR status.

What is TPS?

- Temporary Protected Status (TPS) is a temporary status for individuals from certain designated countries who are already in the United States which allows them to remain and work in the US for up to 18 months. To be eligible for TPS, an Afghan national must have been present in the US **as of March 15, 2022**. TPS for Afghanistan is authorized through November 23, 2023, and eligible Afghans may apply at any time up to that date. TPS does **not** provide a pathway to LPR status.

What if I don't apply for TPS or asylum before my parole expires? Will I be deported back to Afghanistan?

- If your parole expires before you have applied for or obtained another legal status, you will be considered “unlawfully present” in the US and your work authorization will also expire. Being unlawfully present in the US for any amount of time may affect your eligibility for other forms of immigration relief that may be available in the future, and may result in detention or deportation. However, it is very important to understand that **Afghan Operation Allies Welcome (OAW) parolees whose parole expires and who have not broken any laws are not likely to be detained or deported at this time.**

If I don't want to become “unlawfully present” and want to keep my work authorization, when do I need to apply for TPS, asylum or another form of relief?

- Because of the long U.S. Citizenship and Immigration Services (USCIS) application processing delays, it is best to apply for asylum or TPS **as soon as possible** but there is no guarantee that your case will be decided before your parole expires. However, the law is very complicated so Afghan parolees who wish to apply for TPS or asylum **are strongly advised not to file an application before consulting with a legal representative to be sure they are eligible.**
- **TPS:** An application for TPS must be filed **no later than November 20, 2023.** It is possible to apply for employment authorization together with your TPS application.
- **Asylum:** If you are applying for asylum, you should submit your application **6 months before your parole expires to avoid a break in your employment authorization, and no more than 6 months after your parole expires unless you have TPS.** An asylum applicant who does not have TPS can only apply for employment authorization 150 days after filing their asylum application.

Can I apply for both TPS and asylum?

- Yes, it is possible to apply for both TPS and asylum. Applying for one will not affect an application for the other. It is also possible to apply for asylum after getting TPS, or to apply for TPS after you have applied for asylum and are waiting for a decision on your application. If you have been granted asylum, you do not need to apply for TPS.

Where can I find legal assistance with my asylum or TPS application?

- If you are working with a Resettlement Agency, they may have attorneys or Department of Justice accredited representatives who may be able to provide legal assistance or refer you to a qualified legal service provider. **Please remember that only qualified immigration lawyers or DOJ accredited representatives can advise you on your immigration legal options.**
- You can also find a national directory of immigration legal service providers here: <https://www.immigrationadvocates.org/nonprofit/legaldirectory/>
- Or request a referral to an immigration attorney here: <https://www.ailalawyer.com/>