



Temporary Protected Status (TPS) – December 2020

Update: The Department of Homeland Security (DHS) has announced an **automatic extension** of TPS status, including work permits, for the following countries: Nicaragua, Sudan, El Salvador, Haiti, Honduras, and Nepal until **October 04, 2021**.

What does this mean for TPS beneficiaries from Nicaragua, Sudan, El Salvador, Haiti, Honduras and Nepal? The renewal of TPS work authorization and legal status will be *automatic* for those registered—there is no need to pay for employment authorization cards or further registration. TPS beneficiaries from these countries can rely on the [Federal Register Notice](#) and their existing work authorization cards or other confirmation of status to prove their status. *Though not required*, a TPS beneficiary may obtain a new work permit valid through October 4, 2021 by filing the Form I-765 and paying the associated fee.

What is the current status of TPS for Somalia, South Sudan, Yemen and Syria? USCIS has re-designated TPS for the following countries: Somalia, South Sudan, Yemen and Syria. Their TPS extension is through:

Country	TPS is extended through:
Somalia	September 17, 2021
South Sudan	May 02, 2022
Yemen	September 03, 2021
Syria	March 31, 2021

For more information on Temporary Protected Status (TPS) and ongoing litigation please see below

What is Temporary Protected Status (TPS)? TPS is a temporary, renewable, program for people in the United States who are temporarily unable to return safely to their country.

How have people applied for TPS and what are the benefits? TPS applicants can only apply for the first time during a designated country-specific time period. Currently, individuals who have never had TPS before cannot apply. TPS beneficiaries are issued a work permit and protection against deportation. They can also travel with an approved advance parole document. As of now, TPS may be held by people from El Salvador, Honduras, Haiti, Nepal, Nicaragua, Sudan, South Sudan, Syria, Yemen and Somalia.

What happens if TPS is terminated for a specific country? If this happens, TPS beneficiaries from that country will lose protection from deportation and won't be able to renew work authorization. The Department of Homeland Security *may* use information it has collected for those people no longer eligible for TPS to begin removal proceedings against them or, if the TPS beneficiary has a past order of removal, to deport them.

What has happened with TPS during the Trump administration? In 2017 and 2018, the Trump administration tried to end TPS for many countries. However, up until recently, federal courts had allowed TPS to remain in place for people from Nicaragua, Sudan, El Salvador, Haiti, Honduras and Nepal.

What can we expect from a Biden administration? We don't yet know. But Biden has committed to reviewing every TPS decision made by the Trump administration and overturning those that did not consider the facts on the ground. Moreover, he has pledged to extend TPS to Venezuelans.

What are the TPS lawsuits about & what has happened so far? There are several lawsuits challenging the Trump Administration's terminations of TPS including:

- *Ramos v. Nielson* was filed in March of 2018 and challenged the terminations of TPS for Nicaragua, Sudan, El Salvador and Haiti. Here, a federal court had granted an injunction to the TPS beneficiaries, which had temporarily stopped the termination of TPS for beneficiaries from these countries. On **September 14, 2020**, in a 2-1 decision, the 9th Circuit ended the injunction, which paved the way to allow the government to proceed with the termination of TPS for these countries—but not right away. . . . TPS extensions are still in place and the fight in the courts are not yet over!
- *Bhattarai v. Nielsen* was filed on February 10, 2019, challenging the terminations of TPS for Honduras and Nepal. The district court had ordered the government to hold off from implementing the terminations of TPS for Honduras and Nepal until the *Ramos* appeal was decided. With the decision in *Ramos*, terminations of TPS for those countries can take effect, but also not right away. Though *Ramos* has been negatively decided, the fight is still not over!

What happened between the governments of the United States and El Salvador? An agreement was reached permitting TPS beneficiaries from El Salvador to remain in the U.S. and to work here for one year after any decision reversing the *Ramos* injunction.

What is the August 20, 2020 USCIS Policy Memo? USCIS issued a new policy that impacts TPS beneficiaries' ability to apply for a green card in the United States based on a family petition and an entry after travel on advance parole.

Why is this relevant to TPS? Under a long-standing previous policy, TPS beneficiaries who had returned to the U.S. after traveling on advance parole were considered as having made a lawful entry, which is required for family-based green card applicants applying in the United States. In certain areas of the country, including *California* and *Ohio*, TPS by itself makes the beneficiaries eligible to apply for a family-based green card in the United States. This rule does not apply in *New York*. The August 20, 2020 policy changes eliminates a possible pathway for a TPS beneficiary to qualify for their green card in the United States based on travel after August 20, 2020 on advance parole, even if they are married to a U.S. Citizen Spouse or are the parent of a U.S. Citizen child over the age of 21.

When does this decision go into effect? This decision will only apply to travel after **August 20, 2020**. So if someone travels after that date on advance parole, their entry when they return will not count as a "lawful entry" for purposes of applying for a green card in the United States.

Does this decision mean TPS beneficiaries can't travel? This decision does not eliminate advance parole. TPS beneficiaries are still eligible to apply for an advance parole document. It is always recommended that an individual seek legal advice before applying and/or traveling with an approved travel document.

What can I do if I have more questions? All directly impacted people should consult with a trusted immigration attorney to explore their options, and come out to our weekly committee meetings to join us in fighting back!

For more information, please contact:

Queens

Vicente Mayorga
(347) 243-9571

Brooklyn

Yorelis Vidal
(917) 474-5482

Staten Island

Saul Lopez
(347) 998-0069

Long Island

Javier Guzman
(631) 939-6532

Westchester

(914) 948-8466