

Frequently Asked Questions Updated as of November 15, 2018

These Frequently Asked Questions (FAQs) were prepared by the Harvard Immigration and Refugee Clinical Program (HIRC). **HIRC provides *free* consultations and legal representation to members of the Harvard community who are undocumented, DACAmented or have Temporary Protected Status (TPS).** The responses to the FAQs listed below are informational and do not constitute legal advice. Every case is different, and advice will vary depending on the individual circumstances of each student. This guidance is valid as of November 15, 2018.

If you currently have TPS status, **please contact HIRC as soon as possible to set up an individual in-person legal consultation. To make an appointment, please call the HIRC paralegal, Nilce Maldonado, at 617-495-6648 or email her at nmaldonado@law.harvard.edu.**

Recently a federal court in California issued a nationwide injunction that prevents the termination of TPS for people with TPS from Haiti, Sudan, Nicaragua and El Salvador.

What is TPS?

TPS is a federal program that provides limited immigration law benefits to eligible nationals of certain designated countries. The Secretary of Homeland Security may designate a foreign country for inclusion in TPS based on a determination that conditions in the country temporarily prevent the country's nationals from returning safely, or that the country is unable to handle the return of its nationals adequately. USCIS may grant TPS benefits to eligible nationals of such designated countries who are already in the United States. Eligible individuals without nationality who last resided in the designated country may also be granted TPS benefits.

The Secretary may designate a country for TPS due to the following temporary conditions in the country:

- Ongoing armed conflict (such as civil war)
- An environmental disaster (such as earthquake or hurricane) or an epidemic
- Other extraordinary and temporary conditions

During a designated period, individuals who are TPS beneficiaries or who are found preliminarily eligible for TPS upon initial review of their cases (*prima facie* eligible):

- Are not removable from the United States
- Can obtain an employment authorization document (EAD)

- May be granted “advance parole”: *i.e.*, an entitlement to travel abroad and return to the United States.

Once granted TPS, an individual cannot be detained by DHS on the basis of his or her immigration status in the United States.

TPS is a temporary benefit that does not provide a pathway to lawful permanent resident status. However, registration for TPS does not prevent an individual from:

- Applying for nonimmigrant status
- Filing for adjustment of status based on an immigrant petition
- Applying for any other immigration benefit or protection for which the individual may be eligible

PLEASE NOTE: To be granted any other immigration benefit, you must still meet all the eligibility requirements for that particular benefit.

What countries are currently designated for Temporary Protected Status?

Currently the following countries have been designated for TPS.

Please Note: On October 3, 2018, a federal court in California issued an injunction that prevents the termination of TPS for El Salvador, Haiti, Nicaragua and Sudan.

“Scheduled to end” signifies that DHS has determined not to extend the TPS designation for that country, and the TPS termination goes in effect on the date indicated. We use “extended through” language to indicate that DHS has not decided to terminate the TPS designation. At some point on or before the “extended through” date, DHS will announce whether it will extend the TPS designation even further.

- **El Salvador:** will continue as long as the preliminary injunction ordered by the court remains in effect. Current TPS holders must have re-registered by March 19, 2018. Work permit is automatically extended until April 2, 2019. Click [here](#) for a link to USCIS information.
- **Haiti:** will continue as long as the preliminary injunction ordered by the court remains in effect. Current TPS holders must have re-registered by March 19, 2018. Work permit is automatically extended until April 2, 2019. Click [here](#) for a link to USCIS information.
- **Honduras:** scheduled to end on [January 5, 2020](#). Current TPS holders must have re-registered by August 6, 2018. Work permit is automatically extended until January 1, 2019. Click [here](#) for a link to USCIS information.
- **Nepal:** scheduled to end on [June 24, 2019](#). Current TPS holders must have re-registered by July 23, 2018. Work permit is automatically extended until December 21, 2018. Click [here](#) for a link to USCIS information.
- **Nicaragua:** will continue as long as the preliminary injunction ordered by the court

remains in effect. Current TPS holders must have re-registered by February 13, 2018. Work permit is automatically extended until April 2, 2019. Click [here](#) for a link to USCIS information.

- **Somalia:** extended through [March 17, 2020](#). Current TPS holder must have re-registered by October 26, 2018. Click [here](#) for a link to USCIS information.
- **South Sudan:** extended through [May 2, 2019](#). Click [here](#) for a link to USCIS information. Current TPS holders must have re-registered by November 20, 2017.
- **Sudan:** will continue as long as the preliminary injunction ordered by the court remains in effect. Work permit is automatically extended until April 2, 2019. Click [here](#) for a link to USCIS information.
- **Syria:** extended through [September 30, 2019](#). Current TPS holders must have re-registered by May 4, 2018. Work permit is automatically extended until September 27, 2018. Click [here](#) for a link to USCIS information.
- **Yemen:** extended through [March 3, 2020](#). Current TPS holders must have re-registered by October 15, 2018. Work permit is automatically extended until March 2, 2019. Click [here](#) for a link to USCIS information.

Please visit the [USCIS website](#) for the most up-to-date information on each country.

Who qualifies for TPS?

Individuals can apply for Temporary Protected Status if they:

- Are nationals of a country designated for TPS, or persons without nationality who last habitually resided in the designated country;
- File during the open initial registration or re-registration period, or meet the requirement for late initial filing during any extension of their country's TPS designation;
- Have been continuously physically present in the United States since the effective date of the most recent designation date of their country; and
- Have been continuously residing in the United States since the date specified for their country. The law allows an exception to the continuous physical presence and continuous residence requirements for brief, casual and innocent departures from the United States.

Who is not eligible for TPS?

- Individuals who do not meet the initial or late initial TPS registration requirements;
- Individuals who fail to re-register, without good cause, during the re-registration period;
- Individuals who fail to satisfy the continuous residency or continuous physical

presence requirement;

- Individuals who have been convicted of either one felony or two misdemeanors;
- Individuals who are found inadmissible under section 212(a) (please note: there are exceptions for people who are inadmissible due to entering without inspection as well as people who have been ordered removed); and
- Individuals who are subject to any of the mandatory bars to asylum.

What countries are having their TPS designations terminated and when will it be terminated?

The Department of Homeland Security announced that it is terminating the TPS designation for [Sudan](#), [Nicaragua](#), [Haiti](#), [El Salvador](#), [Honduras](#), and [Nepal](#). However, a recent federal court in California [issued a nationwide injunction](#) preventing the government from terminating TPS for people from Sudan, Nicaragua, Haiti and El Salvador until the case has been decided on the merits.

Expiration dates for TPS employment authorization vary by country, as described further below.

Sudan:

TPS for Sudan was scheduled to end on [Nov. 2, 2018](#). However, the nationwide injunction ensures the continued validity of documents that prove lawful status and employment authorization until April 2, 2019. If the case is not decided before April 2, 2019, employment authorization will remain valid or an administrative procedure will be put in place that will ensure the validity of your employment authorization.

Nicaragua:

TPS for Nicaraguans is scheduled to end on [January 5, 2019](#). However, the nationwide injunction ensures the continued validity of documents that prove lawful status and employment authorization until April 2, 2019. If the case is not decided before April 2, 2019 employment authorization will remain valid or an administrative procedure will be put in place that will ensure the validity of your employment authorization.

Individuals from Nicaragua (and individuals having no nationality who last habitually resided in Nicaragua) who have been granted TPS, wish to maintain their TPS, and an EAD valid through January 5, 2019, **must** have re-registered for TPS in accordance with the procedures set forth in the [Notice in the Federal Register](#) (82 F.R. 59636).

Haiti:

TPS for Haitians was scheduled to end on [July 22, 2019](#). However, the nationwide injunction issued by the California federal court ensures the continued validity of documents that prove lawful status and employment authorization until the case is decided on the merits. If the case is not decided before July 22, 2019 employment authorization will remain valid or an administrative procedure will be put in place that will ensure the validity of your employment authorization.

Individuals from Haiti (and individuals having no nationality who last habitually resided in Haiti) who have been granted TPS, **must** have re-registered for TPS by **March 19, 2018** in accordance with the procedures set forth in the [Notice in the Federal Register](#) (83 F.R. 2648).

El Salvador:

TPS for Salvadorans is scheduled to end on [September 9, 2019](#). However, the nationwide injunction issued by the California federal court ensures the continued validity of documents that prove lawful status and employment authorization until the case is decided on the merits. If the case is not decided before September 9, 2019 employment authorization will remain valid or an administrative procedure will be put in place that will ensure the validity of your employment authorization.

Salvadorans with TPS **must** have re-registered by **March 19, 2018** for TPS and applied for an Employment Authorization Document (EAD) in order to work in the United States until the termination of El Salvador's TPS designation in accordance with the procedures set forth in the [Notice in the Federal Register](#) (83 F.R. 2654).

Honduras:

TPS for Hondurans is scheduled to end on [January 5, 2020](#). Honduras was **not** one of the countries listed in the California federal lawsuit that issued the injunction preventing the termination of TPS. Therefore the nationwide injunction does not currently apply to TPS holders from Honduras.

Hondurans with TPS **must have** re-registered by **August 6, 2018** for TPS and applied for an Employment Authorization Document (EAD) in order to work in the United States until the termination of Honduras' TPS designation in accordance with the procedures set forth in the Notice in the Federal Register (83 F.R. 26074). The notice **automatically extends** existing EADs issued under the previous TPS designation of Honduras with the expiration date of July 5, 2018, for 180 days, through [January 1, 2019](#).

Nepal:

TPS for Nepalis is scheduled to end on June 24, 2019. Nepal was not one of the countries listed in the California federal lawsuit that issued the injunction preventing the termination of TPS. Therefore the nationwide injunction does not apply to TPS holders from Nepal.

Nepalis with TPS **must** have re-registered by **July 23, 2018** for TPS and applied for an Employment Authorization Document (EAD) in order to work in the United States until the termination of Nepal's TPS designation in accordance with the procedures set forth in the [Notice in the Federal Register](#) (81 F.R. 74470). The Notice **automatically extends** existing EADs issued under the previous TPS designation of Nepal with the expiration date of June 24, 2018, for 180 days, through [December 21, 2018](#).

The Harvard Immigration and Refugee Clinic (HIRC) assists with TPS renewal pro bono. To make an appointment, please call the HIRC paralegal, Nilce Maldonado at 617-495-6648 or email her at nmaldonado@law.harvard.edu.

What should I do if I have TPS that is set to be terminated?

Even though there is a nationwide injunction in place that prevents the immediate termination of TPS for people from El Salvador, Haiti, Nicaragua and Sudan, the injunction is temporary. Ultimately, the courts will make a decision on the case that will decide the validity of the termination of TPS. For this reason, it is important that you meet with an attorney to see if there are any other immigration remedies that you may qualify for beside TPS.

Does TPS allow me to apply for my green card or any other immigration status?

TPS does not provide a pathway to Permanent Resident Status (green card) or naturalization. However, individuals with TPS status may qualify for other forms of relief independent of TPS.

Individuals with TPS should seek the advice of an attorney to explore other possible forms of relief such as, but not limited to, family-based adjustment of status, employment-based adjustment of status, asylum and withholding of removal, and cancellation of removal.

If you have TPS, please contact the Harvard Immigration and Refugee Clinic (HIRC) for an individual consultation as soon as possible. To make an appointment, please call the HIRC paralegal, Nilce Maldonado at 617-495-6648 or email her at nmaldonado@law.harvard.edu.

What will happen after my TPS expires?

In order to continue receiving TPS benefits, you must re-register for TPS during the re-registration period that applies to your country of nationality. The Department of Homeland Security must announce the terms of the registration period at least 60 days prior to the expiration of TPS status.

Once TPS expires, a TPS recipient cannot be deported without an opportunity to present his or her case in court, unless the TPS recipient has a prior removal order. Immigration and Customs Enforcement can enforce a prior removal order without initiating new removal proceedings.

Additionally, if you were in removal proceedings prior to having TPS, ICE could recommence your prior removal proceedings. It is recommended that individuals from countries where TPS is being terminated speak to an attorney to develop a legal strategy to move beyond TPS status, where possible.

Members of the Harvard community can make an appointment by calling the HIRC paralegal, Nilce Maldonado, at 617-495-6648 or emailing her at nmaldonado@law.harvard.edu.

What kind of safety plan should I come up with?

- Have your immigration information in a place that is quickly accessible and let a family member or friend with immigration status know where this information is, so that he or she can easily access it in case of an emergency.
- Memorize the phone numbers of a qualified lawyer and of a family member or friend with lawful immigration status whom you can call, if picked up by ICE.
- Know what rights you have and what course of action you will take when speaking to immigration enforcement officials. Under the U.S. Constitution, whether you are undocumented or not, you have, for example:
 - The right to remain silent;
 - The right to refuse to open your door to immigration or law enforcement officials who do not have a signed judicial warrant;
 - The right to a lawyer (in immigration proceedings, at your own expense); and
 - The right not to sign any document without first speaking with a lawyer.
- Research your city to see if it has a sanctuary policy. If so, it may be useful to have contact information for your local police readily available so you can contact them in the case of an emergency or if you are unsure of the validity of the warrant being presented to you. In Massachusetts, legislation regarding sanctuary cities has passed in Boston, Brookline, Cambridge, Chelsea, Concord, Lawrence, Newton, Northampton, Salem, Somerville, and Springfield.

You may also wish to speak with your family about planning for an emergency. Attorneys at HIRC are also available to consult about this subject. For further information, see:

- [What to do if you are stopped by police, immigration agents or the FBI](#)
- [Family Preparedness Guide](#)
- [Planning for a Family Emergency](#)

What should I do if ICE comes to my home, work, pulls me over in my car or questions me in the street?

If you have valid immigration status and ICE request to see your documents you may want to consider showing them your work permit or driver's license.

However, regardless of your immigration or citizenship status, you have certain constitutional rights. Your rights include:

- The right to remain silent.
- The right to refuse to consent to a search of yourself, your car, or your home without a judicial warrant. Exceptions:

- Law enforcement officers may search your person (only patting down your outer clothing, not reaching into or squeezing your pockets) or personal belongings, without your consent, if they have a **reasonable suspicion** (a clear, specific and unbiased reason for suspecting) that you have been involved in a crime, and/or are armed and dangerous.
- If you have been lawfully arrested, law enforcement can search your person in connection with that arrest.
- Law enforcement may search your car, without your consent, if they have **probable cause** (a strong, unbiased, factual reason) for believing that there is evidence of a crime or contraband in the car.

Please Note: A judicial warrant is different from an administrative warrant. A judicial warrant must be signed by a judge from a federal court. If you are unsure if the warrant is a judicial warrant you should contact your attorney or perhaps local law enforcement.

- The right to leave the presence of law enforcement if you are not under arrest. You should leave without incident to avoid potentially violating other laws that can be cause for arrest.
- The right to a lawyer, at your own expense, if you are arrested. Ask for one immediately.

For more information:

- [What to do if you are stopped by police, immigration agents or the FBI](#)
- [Family Preparedness Guide](#)

Where can I be targeted? Are places like churches and/or schools safe from enforcement?

Historically, ICE has had a policy of not targeting individuals within the confines of the certain types of institutions. However, ICE may still target individuals traveling to and from these institutions or it may change its policies entirely towards these “[sensitive locations](#).”¹

- Current ICE policies provide that the agency will attempt to avoid raids or arrests near sensitive locations such as:
 - Schools, including known and licensed daycares, pre-schools and other early learning programs; primary schools; secondary schools; post-secondary schools up to and including colleges and universities; as well as scholastic or education-related activities or events, and school bus stops that are marked and/or known to the officer, during periods when school children are present at the stop;
 - Medical treatment and health care facilities, including hospitals, doctors’ offices, accredited health clinics, and emergency or urgent care facilities;
 - Places of worship, including churches, synagogues, mosques, and temples;

¹ See also <https://www.ice.gov/ero/enforcement/sensitive-loc>

- Religious or civil ceremonies or observances, such as funerals and weddings; and
- During public demonstrations, such as a marches, rallies, or parades.

Can immigration officials conduct deportation activities on Harvard's campus?

Currently the Department of Homeland Security (DHS) has a policy of not taking “enforcement actions” at “sensitive locations,” including colleges and universities. For more information, see ICE’s [FAQ on Sensitive Locations and Courthouse Arrests](#). Enforcement actions covered by this policy include arrests, interviews, searches, and surveillance.

If in fact immigrations officials do come on campus, remember it may be in your interest to show valid employment authorization or identification but also know you have the right to remain silent and the right to refuse a search.

ICE must have a valid judicial warrant to search your home or dorm. If you are unsure if ICE has a valid judicial warrant you can contact the Harvard University Police Department to make sure that they are aware of the enforcement activity and have a valid warrant.

Is it safe to go to the police or to court?

Individuals should go to the police if they feel as though they are in danger. There may be additional immigration benefits available to victims of a crime if they can show they were helpful in the investigation of the crime.

Among others, the following cities in the Boston area have declared themselves “sanctuary cities,” meaning that they will not cooperate with ICE except as required by law²:

- Boston: “Will not honor ICE detainer without a criminal warrant.”
 - The Boston Police Commissioner [stated on January 31st, 2017](#) that the Department does not target people based on their immigration status, does not take that status into consideration, and does not consider itself responsible for enforcing immigration laws.
- Cambridge: “Will not honor ICE detainer unless in cases where immigration agents have a criminal warrant or Cambridge officials have a legitimate law enforcement purpose not related to immigration.”
 - Cambridge City Council released the following [statement on November 17, 2016](#): “the Cambridge Police Department does not undertake immigration-related investigations and does not routinely inquire into the specific immigration status of any person encountered during normal police operations.”

² *Enforcement and Removal Operation – Weekly Declined Detainer Outcome Report for Recorded Declined Detainers*, https://www.ice.gov/doclib/ddor/ddor2017_01-28to02-03.pdf (last accessed Apr. 24, 2017).

- Somerville passed an [Executive Policy for Responding to ICE Detainers](#), which stated that the Somerville Police will only honor a request under certain circumstances, such as if the individual is convicted of a violent crime.
 - The Mayor of Somerville [stated on November 21, 2016](#): “[O]ur local police and agencies don't profile our residents to run immigration checks on them.”
- Harvard University Police Department will not allow ICE on campus for immigration enforcement purposes without a warrant or other valid legal process. HUPD advises individuals to contact them immediately if in fact they are confronted by an ICE agent on campus.

If you have a matter in civil or criminal court, please contact an immigration attorney. **If you are a member of the Harvard University community, please contact the Harvard Immigration and Refugee Clinic's Staff Attorney, Jason Corral.**

To make an appointment, please call the HIRC paralegal, Nilce Maldonado at 617-495-6648 or email her at nmaldonado@law.harvard.edu.

As a TPS recipient, is it safe for me to protest and march in rallies?

The Trump Administration has expanded the definition of “criminal alien” for the purpose of prioritizing deportations. If you are arrested at a protest or rally (e.g., for blocking the road), you may fit under the definition of “criminal alien” and be subject to removal.

There are a few precautionary measures you can take if you do plan to attend a protest.

- Check with the organizers to see if they have applied for a permit for the protest. Often, a permitted protest is coordinated ahead of time with authorities to ensure participants' safety.
- Make sure you have the contact information for a lawyer available. The National Lawyers Guild has legal support hotlines available for people participating in political actions: <https://www.nlg.org/massdefensecommittee/>.

If you have any concerns regarding your immigration status, please contact the Harvard Immigration and Refugee Clinic's Staff Attorney, Jason Corral. To make an appointment, please call the HIRC paralegal, Nilce Maldonado at 617-495-6648 or email her at nmaldonado@law.harvard.edu.

What should I do if I am detained at an airport?

If you have a lawyer, you should let Customs and Border Patrol/Transportation Security Administration/ICE know that you would like to speak with him or her.

If you do not have an attorney, call the local ACLU hotline. To find your local ACLU number, go to <https://www.aclu.org/about/affiliates?redirect=affiliates>.

There is also an app available to connect with a lawyer in certain airports, including Boston, through AirportLawyer.org.

If you are a member of the Harvard University community, please contact the Harvard Immigration and Refugee Clinical Program's (HIRC) Staff Attorney, Jason Corral. To make an appointment, please call the HIRC paralegal, Nilce Maldonado at 617-495-6648 or email her at nmaldonado@law.harvard.edu.

Additionally, the ACLU has prepared a "[Know Your Rights](#)" document regarding what to do when encountering law enforcement at airports and other ports of entry into the U.S.

Can my family members and I fly to Puerto Rico with a driver's license but no passport?

If you have any questions about travel plans, please contact the Harvard Immigration and Refugee Clinical Program. To make an appointment, please call the HIRC paralegal, Nilce Maldonado at 617-495-6648 or email her at nmaldonado@law.harvard.edu. **We strongly urge you *not* to leave the continental U.S. without first consulting an immigration expert with the Clinic.**

CAUTION: If you leave the United States after being ordered deported or removed, USCIS will likely consider you deported or removed. This may make you *ineligible to return to the United States in the future*.

I have TPS and am or was planning to go abroad with advance parole. What should I do?

It is of the utmost importance that individuals with TPS meet with an immigration attorney before leaving the country. Traveling with advance parole is very risky and is subject to the discretion of customs and border enforcement officers at the port of entry. It is possible that somebody could be given advanced parole and denied re-entry. For this reason, individuals are encouraged to discuss the risks of traveling well before making travel plans. **To make an appointment with Mr. Corral, please call the HIRC paralegal, Nilce Maldonado at 617-495-6648 or email her at nmaldonado@law.harvard.edu.**

What are the 3- and 10-year bars, and how do they apply to me?

U.S. immigration law provides that certain persons who have been unlawfully present in the United States for a period of time may, if they leave or are removed from the U.S., be barred from reentry for either three or ten years, depending upon the duration of their unlawful presence. The law provides for exceptions, and so application of these bars will depend upon each individual case. You should consult with the [Harvard Immigration and Refugee Clinical Program](#) to determine the potential impact of the 3- and 10-year bars on your eligibility for immigration protection. To make an appointment, please call the HIRC paralegal, Nilce

Maldonado at 617-495-6648 or email her at nmaldonado@law.harvard.edu.

I am an ally. How can I help?

Various bipartisan bills have been introduced that would permanently protect individuals with TPS who have resided in the United States for long periods of time. The bills have varying parameters and include the Extending Status Protection for Eligible Refugees with Established Residency Act, The SECURE Act, and the ASPIRE Act. You can call your congressperson and advocate for passage of legislation that protects individuals with TPS.

Useful links:

- <http://www.savetps.com/committees>
- <http://www.alianzaamericas.org/save-tps>