

## Frequently Asked Questions

Updated as of December 17, 2020

These Frequently Asked Questions (“FAQs”) were prepared by the Harvard Representation Initiative (“HRI”). HRI 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. This guidance is valid as of December 17, 2020.

If you currently have TPS status and you would like to speak to our legal team, please contact HRI to set up an individual consultation. To make an appointment, please call HRI at 617-495-6648 or email [hri@law.harvard.edu](mailto:hri@law.harvard.edu).

### PLEASE NOTE:

On December 9, 2020, the Department of Homeland Security [announced that Employment Authorization Documents will be auto-extended](#) through **October 4, 2021** for El Salvador, Haiti, Honduras, Nepal, Nicaragua, and Sudan.

### 1. 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 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.

The Secretary may designate a country for TPS due to the following 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” 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, however, 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.

## 2. What countries are currently designated for Temporary Protected Status?

Currently, ten countries have been designated for TPS.

“Scheduled to end” signifies that DHS has decided not to extend the TPS designation for that country, and the TPS termination goes into effect on the date indicated. We use “extended through” language to indicate that DHS has not yet 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:** Extended through October 4, 2021. The extension applies to EADs that are valid between September 10, 2016 through March 9, 2018 and March 10, 2018 through September 9, 2019. Click [here](#) for a link to USCIS information.
- **Haiti:** Extended through October 4, 2021. Current TPS holders must have re-registered between January 23, 2016 and July 22, 2018.
- **Honduras:** Extended through October 4, 2021. The extension applies to EADs that are valid between January 23, 2016 through July 22, 2017 and July 23, 2017 through January 22, 2018 and January 23, 2018 through July 22, 2019. Click [here](#) for a link to USCIS information.
- **Nepal:** Extended through October 4, 2021. The extension applies to EADs that are valid between December 25, 2016 through June 24, 2018 and June 25, 2018 through June 24, 2019. Click [here](#) for a link to USCIS information.
- **Nicaragua:** Extended through October 4, 2021. The extension applies to EADs that are valid between July 6, 2016 through January 5, 2018 and January 6, 2018 and January 5, 2019. Click [here](#) for a link to USCIS information.
- **Somalia:** Extended through [September 17, 2021](#). Current TPS holder must have re-registered by May 11, 2020. Click [here](#) for a link to USCIS information.
- **South Sudan:** Extended through May 2, 2022. Current TPS holders must have re-registered by June 4, 2019. Click [here](#) for a link to USCIS information.
- **Sudan:** Extended through October 4, 2021. The extension applies to EADs that are

valid between May 3, 2016 through November 2, 2017 and November 3, 2017 and November 2, 2018. Click [here](#) for a link to USCIS information.

- **Syria:** Extended through [March 31, 2021](#). Current TPS holders must have re-registered between September 23, 2019 and November 22, 2019. Click [here](#) for a link to USCIS information.
- **Yemen:** Extended through [September 3, 2021](#). Current TPS holders must have re-registered by May 1, 2020. Click [here](#) for a link to USCIS information.

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

**HRI assists with free TPS renewal for all Harvard students, staff, and employees. To make an appointment, please call HRI at 617-495-6648 or email [hri@law.harvard.edu](mailto:hri@law.harvard.edu).**

### 3. 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.

### 4. 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) of the Immigration and Nationality Act (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.

### 5. What countries are having their TPS designations terminated and when will it be

## terminated?

The Department of Homeland Security announced that it was terminating the TPS designation for [El Salvador](#), [Haiti](#), [Honduras](#), [Nepal](#), [Nicaragua](#), and [Sudan](#). Federal courts in California and New York subsequently [issued a nationwide injunction](#) preventing the government from terminating TPS for eligible participants from Sudan, Nicaragua, Haiti and El Salvador until a legal challenge to these terminations could be fully and finally decided. On September 14, 2020, the Ninth Circuit Court of Appeals lifted the injunction in *Ramos v. Nielsen* that prevented the Trump administration from moving forward with the termination of TPS for recipients from El Salvador, Haiti, Nicaragua, and Sudan. This ruling does not go into effect immediately. TPS recipients from Haiti, Nicaragua, and Sudan will maintain their status until at least October 4 2021.

Additionally, the parties in a separate lawsuit in federal court in California stipulated to temporarily halt the termination of TPS for Honduras and Nepal pending the decision in the case involving TPS for Sudan, Nicaragua, Haiti and El Salvador. Although the government may seek to lift this stay in light of the Ninth Circuit's decision, it currently remains in effect. The plaintiffs in the *Ramos* lawsuit are planning to challenge the Ninth Circuit's decision, which could result in further delays of TPS termination for the affected countries.

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

### El Salvador:

TPS for Salvadorans was scheduled to end on [September 9, 2019](#). However, the nationwide injunction issued by the California federal court ensures the continued validity of documents that establish lawful status and employment authorization until [October 4, 2021](#).

Current beneficiaries under the TPS designation for El Salvador [do not need to re-register](#) to maintain TPS, provided that they properly re-registered for TPS during the following registration periods for El Salvador:

- July 8, 2016 - September 6, 2016
- January 18, 2018 - March 19, 2018

### 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 establish lawful presence and employment authorization until [October 4, 2021](#).

Current beneficiaries under the TPS designation for Haiti [do not need to re-register](#) to maintain TPS at this time, provided that they properly re-registered for TPS during the following registration periods for this country:

- August 25, 2015 - October 26, 2015
- May 24, 2017 - July 24, 2017
- January 18, 2018 - March 19, 2018

Additionally, current beneficiaries who properly re-registered during the following re-registration periods do not need to submit new biometrics, unless USCIS specifically sends them a notice informing them to attend a biometrics collection appointment.

Honduras:

TPS for Hondurans was scheduled to end on January 5, 2020. However, a federal court temporarily stayed the termination of TPS for Honduras, with the result that employment authorizations will remain valid until [October 4, 2021](#).

TPS for current beneficiaries under the designation for Honduras [will continue](#), provided that they properly re-registered for TPS during at least one of the following registration periods.

- May 16, 2016 - July 15, 2016
- December 15, 2017 - February 13, 2018
- June 5, 2018 - August 6, 2018

If you have not re-registered during at least one of the following registration periods, you should file now and explain your reasons for filing late. If you need assistance re-registering you can call 617-495-6648 to make an appointment with an HRI attorney.

Nepal:

TPS for Nepalis was scheduled to end on June 24, 2019. However, a federal court temporarily stayed the termination of TPS for Nepal, with the result that employment authorizations will remain valid until [October 4, 2021](#).

TPS for current beneficiaries under the designation for Nepal will [continue](#), provided that they properly re-registered for TPS during at least one of the following registration periods for their country:

- October 26, 2016 - December 27, 2016
- May 22, 2018 - July 23, 2018

If you have not re-registered during at least one of the following registration periods, you should file now and explain your reasons for filing late. If you need assistance re-registering you can call 617-495-6648 to make an appointment with an HRI attorney.

Nicaragua:

TPS for Nicaraguans was scheduled to end on [January 5, 2019](#). However, the nationwide injunction ensures the continued validity of documents that establish lawful presence and employment authorization until [October 4, 2021](#).

Current beneficiaries under the TPS designation for Nicaragua [do not need to re-register](#) to maintain TPS, provided that they properly re-registered for TPS during the following registration periods for their country:

- May 16, 2016 - July 15, 2016
- December 15, 2017 - February 13, 2018

Sudan:

TPS for Sudan was scheduled to end on [November 2, 2018](#). However, the nationwide injunction ensures the continued validity of documents that establish lawful presence and employment authorization until [October 4, 2021](#).

Current beneficiaries under the TPS designation for Sudan [do not need to re-register](#) to maintain TPS, provided that they properly re-registered for TPS during at least one of the following registration periods for their country:

- January 25, 2016 - March 25, 2016
- October 11, 2017 - December 11, 2017

**6. 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, the injunction is temporary. Ultimately, the courts 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 potential immigration remedies available to you beside TPS.

**7. What happens now that the injunction has been lifted for the termination of TPS for El Salvador, Haiti, Nicaragua and Sudan?**

Despite the Ninth Circuit's decision in *Ramos*, DHS cannot immediately begin to enforce TPS termination for the affected countries. Once all appeals have been exhausted, each country will have a wind down period. Beneficiaries from Haiti, Nicaragua, and Sudan will be given a minimum of a 120-day transition period from the effective date of the appeals court decision (which will be at least 52 days after the appeals court announces its decision) before the termination of TPS. Beneficiaries from El Salvador will be given a minimum of a 365-day transition period from the effective date of the appeals court decision (which will be at least 52 days after the appeals court announces its decision).

USCIS will inform TPS beneficiaries when either the 120-day or 365-day transition period will begin. The transition period will provide time for current TPS beneficiaries who do not have another lawful immigration status or authorization to remain in the United States to leave the United States, or they will be subject to removal.

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

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

## **9. What will happen if 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 (“ICE”) 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.

## **10. 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, sanctuary city ordinances have 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:

- [Family Preparedness Guide](#)
- [Planning for a Family Emergency](#)

## **11. What should I do if ICE comes to my home or place of work, pulls me over in my**

### **car, or questions me in the street?**

If you are lawfully present in the United States and an ICE agent asks 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, subject to these 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 officers 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.
- The right to leave the presence of law enforcement if you are not under arrest. You should leave without incident to avoid violating other laws that can provide a cause for arrest.
- The right to a lawyer, at your own expense, if you are arrested. Ask for one immediately.

More information is available here:

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

### **12. 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 certain types of institutions. However, ICE may still target individuals traveling to and from these institutions, or it may choose to abandon its existing policy regarding these "[sensitive locations](#)."

- Current ICE policies provide that the agency will attempt to avoid raids or arrests at 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;
- Religious or civil ceremonies or observances, such as funerals and weddings; and
- Public demonstrations, such as a marches, rallies, or parades.

### **13. 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 enter upon campus, Harvard University Police Department should be notified. 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 ICE claims to have a valid warrant, contact Harvard University Police Department and the Office of General Counsel to make sure that they are aware of the enforcement activity.

For more information, see our FAQs on ICE on Campus found [here](#).

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 presented with a document while on campus and are unsure if it meets the requirements of a judicial warrant, you should contact your attorney and/or the Harvard University Police Department or the Harvard Office of General Counsel to determine if the warrant is a judicial warrant.

### **14. 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.

On June 20, 2019, a federal judge temporarily blocked ICE from making civil arrests at Massachusetts courthouses.

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 law:

- Boston: “Will not honor ICE detainer<sup>1</sup> without a criminal warrant.”<sup>2</sup>
  - In December 2019 Boston amended the [Trust Act](#) which clarifies limits on city police cooperation with ICE.
- 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.”<sup>3</sup>
  - Cambridge City Council released the following [statement on November 17, 2016](#): “[T]he 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.”
- Somerville passed an [Executive Policy for Responding to ICE Detainers](#), which stated that the Somerville Police will only honor a request from ICE to detain an individual 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.

### **15. 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.

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<sup>1</sup> An “ICE detainer” is a request made by ICE to local law enforcement to detain a person that ICE has concluded is subject to detention or removal from the United States, under the federal immigration laws.

<sup>2</sup> *Enforcement and Removal Operation – Weekly Declined Detainer Outcome Report for Recorded Declined Detainers*, [https://www.ice.gov/doclib/ddor/ddor2017\\_01-28to02-03.pdf](https://www.ice.gov/doclib/ddor/ddor2017_01-28to02-03.pdf)

<sup>3</sup> *Id.*

**16. What is REAL ID?**

REAL ID is a federal law that establishes standards by which state-issued drivers licenses must meet in order to be used as a valid form of ID for purposes of accessing certain federal facilities or boarding commercial airlines.

**17. Do I need REAL ID compliant identification to be able to travel?**

The Department of Homeland Security has extended the REAL ID enforcement deadline from October 2020 until October 2021 due to the Covid-19 outbreak.

Once REAL ID is enforceable, you will be required to present a REAL ID compliant ID to board a commercial aircraft. A valid foreign passport satisfies REAL ID; however, there is a Custom and Border Protection presence at most major airports and it is possible that a passport without a valid visa could be brought to their attention.

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

Traveling within 100 miles of the U.S. border may expose individuals to detection, arrest, and detention by Customs and Border Protection ("CBP") operating various checkpoints along these routes. It is possible to travel to Puerto Rico, a U.S. territory, with a government-issued ID such as a driver's license, but there are risks to doing so. People may at times be asked to prove their immigration status.

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*.

**If you have any questions about travel plans, please make an appointment by calling 617-495-6648 or emailing [hri@law.harvard.edu](mailto:hri@law.harvard.edu). We strongly urge you \*not\* to leave the continental U.S. without first consulting an immigration expert with the Clinic.**

**19. 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 Protection 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.

**20. 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.

## **21. 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, the ASPIRE Act, and the American Dream and Promise Act of 2019. You can call your congressperson and advocate for passage of legislation that protects individuals with TPS.

TPS Advocacy Organizations:

- [National TPS Alliance](#)
- [Alianza Americas](#)
- [Massachusetts TPS Committee](#)