

# Mobility: immigration alert

May 2022

## United States

### DHS Announces Procedures for Afghan Temporary Protected Status Applications and Offers Special Student Relief for Afghan F-1 Students

#### Executive summary

On 20 May 2022, the Department of Homeland Security (DHS) published a notice in the Federal Register outlining how Afghan nationals (or individuals having no nationality who last habitually resided in Afghanistan) can apply for Temporary Protected Status (TPS). The 18-month TPS designation period became effective as of 20 May and will continue through 20 November 2023. During this period, eligible beneficiaries may submit an initial registration application for TPS and apply for an employment authorization document (EAD).

In a concurrently published Federal Register notice, DHS announced that F-1 Afghan students in the U.S. who are experiencing severe economic hardship as a direct result of the situation in Afghanistan will not be subject to certain limitations on employment. The Special Student Relief (SSR) provisions will also be available through 20 November 2023.

#### Background and Analysis

DHS may grant TPS to those individuals who are in the United States and are unable to safely return to their home country due to ongoing armed conflict, an environmental disaster, or other extraordinary conditions.

DHS has determined that conditions in Afghanistan warrant a TPS designation for Afghan nationals and individuals having no nationality who last habitually resided in Afghanistan. Afghanistan continues to

experience armed conflict and insurgency throughout the country from the Taliban's takeover in August 2021. The resulting security situation, economic situation, food insecurity, and other factors resulted in the decision to designate Afghanistan for TPS on 16 March 2022.

To qualify for TPS for Afghanistan, an applicant must:

- ▶ Demonstrate they have continuously resided in the U.S. since 15 March 2022
- ▶ Have been continuously physically present in the U.S. since 20 March 2022
- ▶ Be an Afghan national, or, if having no nationality, have last habitually resided in Afghanistan
- ▶ Demonstrate admissibility to the U.S. (though some admissibility criteria may be waived)

Beneficiaries seeking TPS must complete and submit Form I-821, Application for Temporary Protected Status, either online at <https://www.uscis.gov/i-821> or via mail (instructions on U.S. Citizenship and Immigration Services' (USCIS) website here: <https://www.uscis.gov/i-821>).

Beneficiaries who wish to receive an EAD and authorization to travel internationally after obtaining TPS must also file Form I-765, Application for Employment Authorization, and Form I-131, Application for Travel Document, respectively. The I-765 is currently eligible for online filing, but the I-131 is not.



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The SSR provisions seek to provide relief to Afghan F-1 nonimmigrant students so they may request employment authorization, work an increased number of hours while their academic institution is in session, and reduce their course load while still lawfully maintaining their F-1 student status. These provisions will apply exclusively to F-1 students who meet the following conditions:

- ▶ Citizens of Afghanistan regardless of country of birth (or individuals having no nationality who last habitually resided in Afghanistan)
- ▶ Lawfully present in the United States in F-1 status on 20 May 2022
- ▶ Enrolled in an academic institution that is Student and Exchange Visitor-certified for enrollment for F-1 students
- ▶ Maintaining F-1 status
- ▶ Experiencing severe economic hardship as a direct result of the current situation in Afghanistan.

Beneficiaries seeking to take advantage of the SSR provisions must file an I-765 application with USCIS for off-campus employment based on severe economic hardship. Before applying for the EAD, the F-1 student must obtain a Form I-20 containing a recommendation for employment authorization from their Designated School Official. To expedite processing, students are encouraged to mail the application to USCIS in an envelope clearly marked "SPECIAL STUDENT RELIEF" on the front in the bottom right-hand corner.

#### What this means

TPS will provide additional protection and the benefit of work and travel authorization to Afghans who received humanitarian parole, have applied for asylum, or who hold nonimmigrant status in the United States. The SSR provisions will further benefit F-1 students who would otherwise face serious challenges to maintaining their status due to serious economic hardship resulting from the conditions in Afghanistan.

EY Law will continue to monitor these developments. Should you have any questions, we encourage you to contact one of our U.S. immigration professionals.

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