



# Immigrant Legal Services Center

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## University of California Immigrant Legal Services Center (“Center”) Temporary Protected Status (TPS) and Deferred Enforced Departure (DED) Frequently Asked Questions (FAQ)

*Please note: The FAQ below are informational and do not constitute legal advice. Each individual case is different, and advice may vary depending on your current situation. If you have any questions about your case, please contact a Center attorney for a consultation as soon as possible.*

### What is TPS (Temporary Protected Status)?

Temporary Protected Status, or TPS, allows nationals of certain countries or areas within certain countries who are already present in the United States to remain lawfully in the United States for a designated, temporary period of time. If, for example, conditions in a particular country temporarily prevent its nationals from returning and living there safely, the Department of Homeland Security can designate that country for TPS. Unsafe conditions can be a result of circumstances such as natural disasters, ongoing armed conflict, or government instability. TPS is initially provided for no less than six months, and no more than 18 months, though the TPS designation can be extended.

Individuals with valid TPS can obtain an employment authorization document, may be authorized to travel, and are not removable (deportable) from the United States. TPS does not, by itself, lead to lawful permanent residence, nor does it grant any other immigration status. TPS only remains effective until the date the country of nationality is no longer designated a TPS country.

### If I received TPS and my TPS status is set to expire soon, do I need to re-register?

In order to keep TPS benefits, you must re-register during each re-registration period. If you don't re-register, you can lose TPS and work authorization. You must file Form I-821, Application for Temporary Protected Status,<sup>1</sup> to re-register for TPS. You can find country-specific re-registration instructions on the USCIS website: <https://www.uscis.gov/humanitarian/temporary-protected-status>.

### Can the government take away TPS? Who does the recent TPS rescission affect?

A country's designation for TPS is not a permanent designation, and if the conditions in the country that led to its TPS designation no longer meet the TPS standards, the Attorney General can terminate the country's TPS designation.

El Salvador, Haiti, Honduras, Nepal, Nicaragua, Somalia, Sudan, South Sudan, Syria, and Yemen are currently designated for TPS. However, the Secretary of Homeland Security has recently made announcements regarding the following countries:

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<sup>1</sup> Available at <https://www.uscis.gov/i-821>.

- **NEPAL:** TPS designation for Nepal will terminate on June 24, 2019. (Announcement made on April 26, 2018).<sup>2</sup>
- **EL SALVADOR:** TPS designation for El Salvador will terminate on September 9, 2019. (Announcement made on January 8, 2018).<sup>3</sup>
- **HAITI:** TPS designation for Haiti will terminate on July 22, 2019. (Announcement made on November 20, 2017).<sup>4</sup>
- **NICARAGUA:** TPS designation for Nicaragua will terminate on January 5, 2019. (Announcement made on November 6, 2017).<sup>5</sup>
- **HONDURAS:** TPS designation for Honduras has **not** been terminated. The **TPS designation for Honduras is currently extended to July 5, 2018**, though it is possible that the Department of Homeland Security will announce termination of Honduras' TPS designation in the coming months. (Announcement made on November 6, 2017).<sup>6</sup>

When the Attorney General terminates the TPS designation for a particular country, TPS beneficiaries from that country will return to the immigration status they had before they received TPS. However, if that status expired or was terminated, beneficiaries will not return to that status. For example, if a TPS beneficiary had no lawful status before receiving TPS and he or she did not acquire lawful status while he or she had TPS, that individual will again have no lawful status when the TPS designation terminates.

### Can I continue to work when my TPS expires?

If you received work authorization through TPS, that work authorization remains valid for the entire period you are in Temporary Protected Status. TPS is often granted in increments of 18 months, and so your employment authorization would be valid for that period of time. If your TPS status was extended, the Department of Homeland Security may automatically extend your work authorization until the TPS designation for your country of origin terminates. You can find country-specific automatic employment authorization document extension information on the USCIS website: <https://www.uscis.gov/humanitarian/temporary-protected-status>.

Employers should not require you to present additional documentation if your work authorization was automatically extended based on your TPS status.

If you received TPS as a Honduran, Nicaraguan, Haitian, Salvadoran, or Nepali national and/or your TPS status and/or work authorization are set to expire or be terminated, please consult with an immigration attorney to learn about other options that might be available to you.

### I've heard that I can apply for a green card (lawful permanent residence) through an immediate relative if I have TPS. Is that true?

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<sup>2</sup> Department of Homeland Security, "Secretary of Homeland Security Kirstjen M. Nielsen Announcement on Temporary Protected Status for Nepal" (April 26, 2018), available at <https://www.dhs.gov/news/2018/04/26/secretary-kirstjen-m-nielsen-announcement-temporary-protected-status-nepal>.

<sup>3</sup> Department of Homeland Security, "Secretary of Homeland Security Kirstjen M. Nielsen Announcement on Temporary Protected Status for El Salvador" (January 8, 2018), available at <https://www.dhs.gov/news/2018/01/08/secretary-homeland-security-kirstjen-m-nielsen-announcement-temporary-protected>.

<sup>4</sup> Department of Homeland Security, "Acting Secretary Elaine Duke Announcement on Temporary Protected Status for Haiti" (November 20, 2017), available at <https://www.dhs.gov/news/2017/11/20/acting-secretary-elaine-duke-announcement-temporary-protected-status-haiti>.

<sup>5</sup> Department of Homeland Security, "Acting Secretary Elaine Duke Announcement on Temporary Protected Status for Nicaragua And Honduras" (November 6, 2017), available at <https://www.dhs.gov/news/2017/11/06/acting-secretary-elaine-duke-announcement-temporary-protected-status-nicaragua-and>.

<sup>6</sup> *Id.*

A 2017 Ninth Circuit Court of Appeals decision, *Ramirez v. Brown*, provides an opportunity for certain individuals with TPS to apply for a green card through an immediate relative.<sup>7</sup> Because the future of this opportunity and the future of TPS are uncertain, we recommend that you contact an attorney as soon as possible to see if you or a loved one, as a TPS recipient, can use this opportunity to apply for a green card.

### What is Deferred Enforced Departure (DED)?

Deferred enforced departure (DED) is another temporary form of immigration relief granted to nationals of a country by the president. Like TPS, DED does **not** provide a pathway to permanent residence, but allows individuals from a designated country to remain in the U.S. for a period of time. This period of time is up to the discretion of the president and allows eligible individuals to apply for employment authorization. However, DED is **not** a form of legal status.<sup>8</sup>

At this time, Liberia is the only country on the DED list. Liberian nationals who had been previously granted TPS that was valid until September 30, 2007 are eligible for DED protection.

### Can the government take away DED? Who does the recent DED rescission affect?

Similar to TPS, the president can decide to end DED designation for nationals of a DED designated country. On March 27, 2018 the President announced that **DED would be terminated for Liberian nationals living in the U.S. after one year, on March 31, 2019.**<sup>9</sup> After March 31, 2019, Liberian nationals covered under DED will no longer have legal status and will be removable.

This means that Liberian nationals who have employment authorization through DED are currently able to renew their employment authorization one more time in order to obtain a work permit that expires on March 31, 2019. **For more information on how to renew employment authorization as a current DED recipient, please visit the USCIS website:** <https://www.uscis.gov/humanitarian/deferred-enforced-departure/ded-granted-country-liberia/ded-granted-country-liberia>.

If you received DED as a Liberian national and/or your work authorization is set to expire or be terminated, please consult with an immigration attorney to learn about other options that might be available to you.

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<sup>7</sup> For more information about this opportunity, please see Immigrant Legal Resource Center, “Practice Alert on *Ramirez v. Brown*—November 2017 Update” (November 2017), available at [https://www.ilrc.org/sites/default/files/resources/tps\\_advisory\\_1108\\_-\\_ms\\_anb.ak\\_.anb\\_.ak\\_.pdf](https://www.ilrc.org/sites/default/files/resources/tps_advisory_1108_-_ms_anb.ak_.anb_.ak_.pdf).

<sup>8</sup> Please see <https://www.uscis.gov/humanitarian/temporary-protected-status/deferred-enforced-departure>.

<sup>9</sup> The White House, “Presidential Memorandum for the Secretary of State and the Secretary of Homeland Security” (March 27, 2018), available at <https://www.whitehouse.gov/presidential-actions/presidential-memorandum-secretary-state-secretary-homeland-security/>.