

This is an informative document, not legal advice. Policies are always changing, and you should always consult with an immigration attorney about your specific situation.

If you have been living in the U.S. since September 20, 2023 and are Afghan, you may qualify for Temporary Protected Status (TPS). This means you can legally remain in the U.S. until May 20, 2025. It is not a permanent status but you can apply for permanent status while on TPS.

What Is Temporary Protected Status (TPS)?

TPS is for individuals who cannot return to their home country safely. TPS allows individuals to stay in the U.S. for the period of the TPS designation and access certain benefits. Individuals with TPS are NOT removable and CANNOT be detained because of their immigration status.

TPS is a temporary protection. Some visas lead to a green card and then citizenship, while TPS does not.

TPS is a temporary ability to remain legally. It does not lead to lawful permanent residence or any other permanent status. Even if you are granted TPS, you must still pursue permanent protections.

What Are the Requirements for TPS Under the Most Recent Designation?

To get TPS:

1. You must be an Afghan national, or you do not have nationality/citizenship of any country but have mostly lived in Afghanistan
2. You have been continuously physically present in the U.S. since Nov. 21, 2023
3. You have continuously resided in the U.S. since Sept. 20, 2023

Even if you entered the U.S. unlawfully, such as entering without a visa or parole, you can apply.

Even if you have been denied asylum, you can still apply. You do not need to prove that you will be harmed if you return to Afghanistan.

Even if you leave after Nov. 21, 2023, you might still be able to qualify if these trips were short, casual, or for an emergency.

If you were granted parole, you can still apply for TPS. Also, if you are granted TPS, you must still apply for reparole if you want to continue to use parole benefits.

What Do I Need to Do to Get TPS?

Register during the initial registration period, beginning Sept. 25, 2023, which lasts until May 20, 2025.

File Form I-821 online or by mail.

Pay the application fee (\$50, and an additional \$85 for biometrics if you are over 14), or submit a waiver. If your waiver is denied, your application might be delayed.

Provide evidence of your identity, nationality, date of entry, and residence evidence, all translated to English.

USCIS will contact you for an appointment to get certain information. You must attend this appointment or reschedule, or your application will be considered abandoned.

USCIS might ask you for more evidence. You must respond with this evidence, or your application will be denied. You cannot ask USCIS to change this denial, but you can file a motion to reopen your application.

Can I Work or Travel While I Wait for TPS?

You can request employment authorization at the same time you apply for TPS with Form I-765, which costs \$410. You can seek a fee waiver, which includes a separate application, form I-912.

You must inform USCIS of any time you leave the U.S. after Nov. 21, 2023. If you need to leave, you can request authorization to reenter (advanced parole), or you can request faster processing of your TPS application.

What If I Already Registered for TPS?

You can re-register for TPS with Form I-821.

You do not need to pay the fee for Form I-821. You must pay the \$85 biometrics fee again if you are older than 14.

If you already received an EAD (work permit), it is automatically extended through Nov. 20, 2024.

If you applied for TPS but have not yet received it, you do not need to file again. Your TPS status will be granted through May 20, 2025 if approved.

What Can I Do Once I Get TPS?

You can apply for work authorization. If you have not applied already, you can apply for an EAD and a SSN.

You may be granted authorization to travel (advanced parole).

You can apply for nonimmigrant status or immigrant status.

What Can't I Do with TPS?

TPS is not a green card. You are not free to travel without authorization.

You cannot bring your family to the U.S. with TPS.

Once I Get TPS, Do I Need to Do Anything Else?

You must keep USCIS updated with any address changes within 5 days of every time you move.

You must still apply for travel authorization (known as "advance parole").

If you are also in a nonimmigrant status, like a student visa, you must keep that status current.

You must apply for another status if you want to stay in the U.S. past May 20, 2025. You should consider applying for asylum. If you do not have another legal status, you could be placed in removal proceedings after May 20, 2025.

What Are My Options for a Green Card?

TPS does not lead to a green card by itself.

You can apply for asylum, even if it has been more than a year since you entered, as long as you apply while you are in TPS status or shortly after it expires.

If you are an OAW parolee, your asylum application will be processed faster, which means you would get status faster. However, you should work with a lawyer to help you with your asylum application, and there are many available to assist Afghans.

Additionally, if you worked for the U.S. government or military in Afghanistan, you might qualify for a Special Immigrant Visa (SIV). Depending on other factors, like your family, your job, your education, and whether you were the victim of a crime, you might qualify for other visas.

It is always best to get the advice of a lawyer for your individual situation.

Can I Be Denied TPS?

Even if you are Afghan and arrived before Sept. 20, 2023, your application can still be denied:

- If you have certain criminal history. Specifically, if you have a felony or 2 misdemeanors
- If you are inadmissible under INA § 212(a), but you might be able to get a waiver
- If you are subject to a mandatory asylum bar, such as supporting a terrorist organization, participating in hurting others, or if you had permanent status or were given refugee status in another country.

You can appeal a denial to the Administrative Appeals Office (AAO) or request review by your Application Support Center (ASC). Your EAD will be extended while you wait for a decision.

TPS in Removal Proceedings

Am I in Removal Proceedings?

If you entered the U.S. unlawfully or you lost lawful status, DHS might be trying to remove you from the U.S. Check your A-number (9 digit number) to see if you have a court date [here](#) or by calling 1-800-898-7180. If your number is not the system, you are probably not in removal proceedings, but you could be in the future. It is important to check the website or phone number regularly to make sure you do not miss a hearing.

If you were stopped when you crossed the border, you might also be in removal proceedings. If you have a Notice to Appear (NTA), with a court date (a Master Calendar Hearing), you are in removal proceedings. Make sure that the NTA has all of the fields filled out. If it does not, it is not a proper NTA and you can challenge your removal. It is very important to have a licensed attorney review your documents and help you understand them and understand how best to fight your deportation.

Can I Apply for TPS in Removal Proceedings?

Yes. Even if you are detained, you can apply for TPS.

If you are in removal proceedings and the reason listed on the NTA would also prevent you from getting TPS, then the Executive Office for Immigration Review (EOIR), not USCIS, will decide your TPS application during the proceedings.

What Do I Do in Removal Proceedings If I Want to Apply?

At your next appearance in front of the court, you should request a continuance of your case. Tell the immigration judge that you are eligible for TPS, and do not designate a country of removal. Ask to decline to plead on the charges. The immigration judge might still ask you to, so carefully check the NTA and decide if you will admit or deny the charges. There might be mistakes, and you can deny those charges. Remember the government must prove those charges against you. It's best to check with a lawyer to decide what to do and prepare to present your specific case.

Depending on your immigration judge, the court might decide that you are not removable when you show that you are eligible for TPS, or when you have applied. Other courts might wait until your TPS application is approved before deciding you cannot be removed from the U.S.

If your next hearing is your final, individual merits hearing, you might make a different consideration depending on whether you have an attorney and the strength of your case. This guidance generally applies if you have a master calendar hearing, or your case is in a difficult court.

What happens if my case is closed or dismissed with the Immigration Court?

If your case is dismissed or administratively closed, you can and should still pursue asylum or other pathways, but you will be able to do so with the asylum office instead of with the

Immigration Court. The asylum office process is less adversarial, and you won't have to attend hearings every few months. Instead, you will most likely have months or years to prepare your evidence and prepare for an interview.

**I applied for TPS and my application was denied. I am presently in removal proceedings..
How Do I Appeal the TPS denial?**

If you applied for TPS with USCIS but you are in removal proceedings when your TPS application is denied, the immigration judge can reconsider your application.

If the immigration judge, or the Board of Immigration Appeals, grants you TPS, you must give proof of that decision to USCIS.

Your EAD will be extended while you wait for a decision.

What Happens If I Am Granted TPS While In Removal Proceedings?

TPS means you can no longer be removed or detained.

If you get TPS while in removal proceedings, you have three options. You should get the advice of a lawyer about which options are best for your case:

1. You can continue to request asylum while in removal proceedings (known as “defensive asylum”).
2. You can ask the immigration court to pause your removal proceedings (“administrative closure”). When TPS ends, your removal proceedings will restart, and you can request defensive asylum then.
3. You can ask the DHS Office of the Principal Legal Advisor (OPLA), who represent Immigration and Customs Enforcement (ICE), and are the opposing party to you in your immigration court proceedings, to end the proceedings. You can apply for asylum outside of removal proceedings (known as “affirmative asylum”).

No matter which option you choose, it is important to try to get permanent lawful status if you want to stay in the U.S. Once TPS ends, if you do not have a permanent status, you can be placed back in removal proceedings.

What If I Received a Final Order of Removal?

If you have received a final order of removal or agreed to voluntary departure before the TPS announcement, you can still apply for TPS.

TPS would allow you to stay in the U.S. until May 20, 2025. After TPS ends, you could be detained or removed.

If you are granted TPS, you should speak with a lawyer. You might be able to reopen your removal order and find a new way to apply for permanent legal status.

| Option | Pros | Cons |
|---|---|--|
| <p>1. Continue to seek asylum in removal proceedings</p> | <p>If you have a strong asylum claim, this could be a faster way of obtaining permanent legal status in the U.S. Your family may also be eligible for protection if you win asylum. This might not be the best option for everyone, because everyone has a different basis for applying for asylum.</p> | <p>A judge could deny you asylum, and it is possible that the government does not extend TPS longer than 2025. You may be removable if your TPS expires unless you become eligible for a green card or protection through some other pathway, such as marriage, family reunification, U visas, T visas, and certain other pathways, or through withholding of removal.</p> |
| <p>2. Seek administrative closure of your removal proceedings while you have TPS, then continue your asylum claim when TPS expires and you are back in removal proceedings.</p> | <p>You would still be able to obtain work authorization, work and live in the United States throughout this time period. If you received an EAD because of a pending asylum application, you can continue to use it without applying and paying the application fee again. If you need more time to make a strong asylum claim, this option gives you a few years to gather your evidence and make your case. You could file your asylum application affirmatively, with the Asylum Office, which is part of USCIS, instead of the Immigration Court. Generally, this process is less adversarial than going through Immigration Court. It usually takes a few years after you file your application to receive an interview. You could also apply for another permanent status other than asylum if you become eligible. For example, marriage and family-based greencards, and visas for employment or victims of crimes.</p> | <p>A lot can change between now and May 20, 2025. Your asylum case might become weaker, particularly if conditions change in Afghanistan. The court can also reopen your case once TPS ends because you are still in removal proceedings, they are just paused.</p> |
| <p>3. Ask the DHS Office of the Principal Legal Advisor (OPLA), who represent Immigration and Customs Enforcement (ICE), and are the opposing party to you in your immigration court proceedings, to use their discretion to dismiss your removal proceedings entirely, and apply for asylum once the removal proceedings have ended.</p> | <p>You are no longer in removal proceedings and can make your asylum case outside of the court, through the Asylum Office. You could also apply for another permanent status other than asylum. For example, marriage and family-based greencards, and visas for employment or victims of crimes.</p> | <p>Asylum applications filed outside of removal proceedings can take a long time to process. Usually, it takes several years to be scheduled for your interview. Also, you cannot ask the immigration judge to review your application if it is denied by the asylum office.</p> |