

The Use of Parole Under Immigration Law

Under U.S. immigration law, the Secretary of the Department of Homeland Security (DHS) has discretion to grant “parole” to certain noncitizens to allow them to enter or temporarily remain in the United States for specific reasons. Parole under immigration law is very different than in the criminal justice context. This fact sheet explains the nature of parole, how parole requests are considered, who may qualify, and what parole programs currently exist.

What is Parole?

The Immigration and Nationality Act (INA) authorizes the Secretary of Homeland Security to exercise discretion to temporarily allow certain noncitizens to physically enter or remain in the United States if they are applying for admission but do not have a legal basis for being admitted.¹ DHS may only grant parole if the agency determines that there are urgent humanitarian or significant public benefit reasons for a person to be in the United States and that person merits a favorable exercise of discretion.² Grants of parole are made for limited periods of time, often to accomplish a discrete purpose, and individuals are typically expected to depart the United States when the authorized period expires unless another form of status or relief is conferred.

While individuals who receive a grant of parole are allowed to enter the United States, they are not provided with an immigration status nor are they formally “admitted” into the country for purposes of immigration law.³ An admission occurs when an immigration officer allows a noncitizen to enter the United States pursuant to a visa or another entry document, without the limitation of parole. The distinction between an admission and parole is a significant one under immigration law.⁴

Who Has Authority to Grant Parole?

The Secretary of Homeland Security has delegated parole authority to the three immigration agencies within DHS: U.S. Citizenship and Immigration Services (USCIS), U.S. Customs and Border Protection (CBP), and U.S. Immigration and Customs Enforcement (ICE).

USCIS adjudicates many of the parole requests made by individuals seeking to enter the United States for humanitarian reasons, while ICE typically handles parole requests related to court hearings or intelligence matters, as well as parole from immigration detention. ICE has separate jurisdiction over decisions about whether or not to parole detained individuals out of ICE custody, including “arriving aliens” who establish a credible fear of persecution or torture.⁵ CBP has authority to make parole decisions at ports of entry. For example, it can parole noncitizens fleeing persecution and who wish to apply for asylum. It also may parole individuals for “deferred inspection,” which means that they permit an individual to enter the United States, but they schedule a subsequent interview to address unresolved issues about their admissibility.⁶

What is Humanitarian Parole?

While humanitarian parole is explicitly authorized by the INA for “urgent humanitarian reasons,” there is no statutory or regulatory definition of an “urgent humanitarian reason.” USCIS has stated, however, that it will consider factors such as the time-sensitivity of the circumstances and the degree of suffering that may result if parole is not authorized.⁷ According to USCIS, examples of urgent humanitarian circumstances could include, but are not limited to:

- Receiving critical medical treatment in the United States;
- Becoming an organ donor to an individual in the United States;
- Visiting or caring for a sick relative in the United States;
- Attending a funeral or settling the affairs of a deceased relative in the United States; or
- Coming to the United States for protection from targeted or individualized harm.⁸

What is Significant Public Benefit Parole?

Immigration law also authorizes parole that would result in a “significant public benefit,” but—like humanitarian parole—there is no statutory or regulatory definition of the term. Typically, this form of parole is used to allow noncitizens to appear for and participate in a civil or criminal legal proceeding in the United States.⁹ Significant public benefit parole might be granted, for example, to allow a key witness with no legal means of entering the United States to be paroled into the country long enough to testify in a criminal prosecution for drug trafficking.

What is Advance Parole?

Certain noncitizens who are already present in the United States, but wish to leave the country and return, can apply for “advance parole.” This constitutes permission from DHS to re-enter the United States after travel abroad. Importantly, however, the issuance of an advance parole document is not a guarantee that a person will be permitted to re-enter the United States when inspected at a port of entry upon their return.

Advance parole is commonly used when someone:

- Filed an application for adjustment of status, but has not received a decision from USCIS;
- Has a pending application for asylum or withholding of removal and intends to depart from the United States temporarily to apply for a U.S. immigrant visa in Canada;¹⁰
- Has an “emergent personal or bona fide reason” to travel temporarily abroad, such as a sick family member abroad;¹¹ or
- Is a Temporary Protected Status (TPS) recipient who seeks advance permission to travel abroad.

As of July 2022, USCIS will discontinue the use of advance parole for TPS recipients and instead create a TPS-specific travel document that uses a separate legal authority to permit TPS recipients to travel outside the United States and be inspected and admitted upon their return.¹²

What Factors Are Considered in Making a Parole Decision?

Each DHS component has its own methodology for making parole decisions. Moreover, the factors to be considered will vary depending on the type of parole requested. In general, however, since parole is a discretionary benefit, all parole decisions will be made on a case-by-case basis, with the immigration officer considering the reason for the request and whether it constitutes a basis for parole, and then weighing the positive factors in the noncitizen's case against any negative factors. In deciding whether to favorably exercise discretion, the immigration officer evaluates a number of factors, including:¹³

- The reason for the parole request;
- Whether there is evidence of any criminal history or previous immigration violations;
- Whether there is evidence of any previous participation in fraud;
- Whether the noncitizen's presence would benefit a U.S. citizen, lawful permanent resident (LPR), or community in the United States;
- Evidence of the noncitizen's character; or
- Whether there are other means available to the noncitizen to enter the United States for the stated parole purpose, such as a visa.

The Parole Process and How It Works: Step-by-Step

Parole is reviewed on a case-by-case basis by an agency within DHS, and the burden of proof is placed on the applicant to establish that parole should be authorized.¹⁴ If parole is authorized, the agency authorizing parole will specify how long it may last, tailored to accomplish the purpose of the parole.¹⁵ Parole ends on the date it is set to expire, when the beneficiary departs the United States, or when the individual acquires an immigration status. DHS may revoke parole at any time if it is no longer warranted or the beneficiary violates the conditions of the parole.¹⁶ A parolee may also apply to extend or renew their parole with the agency that first issued the parole.

Must an Applicant for Parole into the United States Have a Sponsor within the United States?

Anyone may request parole into the United States from USCIS. The request may be submitted by the noncitizen or by another person on behalf of the noncitizen. With such requests, USCIS requires proof that the noncitizen will have a means of support while in the United States, often requiring that a parolee have a sponsor who agrees to provide financial support for the duration of the parole authorization period while the parolee is in the United States.¹⁷ An inability to provide evidence of financial support while in the United States may lead to a denial of parole.¹⁸ While there is no official requirement regarding a sponsor's immigration status, DHS may consider a sponsor who has a more permanent status in the United States more favorably, based on its assumption that such sponsors are more reliably able to provide financial support to the parolee.¹⁹

Parole from Immigration Detention

Parole is also a way a person can be released from immigration detention.²⁰ Decisions on whether to release a person from ICE custody on parole are made by ICE and are based on the same factors as parole issued by USCIS. Parole from ICE custody is also divided into humanitarian parole and significant public benefit parole. The executive has the authority to issue memoranda describing what constitutes significant public benefit parole or humanitarian parole, since neither are defined in the statute or regulations and both are still based on a case-by-case analysis. One example of this is a memo encouraging release of arriving aliens who were found to have a credible fear of persecution and/or torture.²¹

Special Parole Programs

In addition to the general parole process, DHS has established special parole programs designed to address the circumstances of certain populations. Parole decisions under these programs are still made on a case-by-case basis, and DHS can end a special parole program when it determines that the program is no longer necessary. As of June 2022, the following special parole programs were in place:

Uniting for Ukraine

On April 21, 2022, the Biden administration created a truncated process for individuals and organizations in the United States to apply for Ukrainian citizens to receive parole into the United States.²² This is a one-step application that requires the sponsoring individual or organization to complete an I-134 (Declaration of Financial Support).

Afghan Nationals

The United States did not create a separate program for Afghans to apply for parole. However, due to the U.S. commitment to evacuating and resettling Afghan citizens, USCIS added mechanisms for Afghans to apply for humanitarian parole and has attempted to respond to the large influx of emergency requests.²³

Central American Minors (CAM) Refugee and Parole Program

In 2021, the Biden administration restarted the CAM parole program after the Trump administration terminated it in 2017. On March 10, 2021, the Department of State announced the restart of the program and on September 13, 2021, it announced that it was accepting new applications. The CAM program provides eligible children from Guatemala, El Salvador, and Honduras an opportunity to reunite with family in the United States. Parents and certain legal guardians who are legally in the United States can apply for their children to obtain access to the program.²⁴

Cuban Family Reunification Parole Program (CFRP)

Established in 2007, the CFRP allows certain eligible U.S. citizens and LPRs who have filed a family-based immigrant petition for their family members in Cuba to seek parole for those family members while waiting for a visa to become available.²⁵ If parole is approved, the recipients may come to the United States, where they are eligible to apply for work authorization while they wait for their immigrant visa to become available. This program did not have new applicants between 2016 and 2022.²⁶ However, in May 2022, the Biden administration announced its intention to reconstitute the program and reopen the program in the summer of 2022.²⁷

Haitian Family Reunification Parole Program (HFRP)

Created in December 2014, the HFRP allows certain eligible U.S. citizens and LPRs to apply for parole for family members in Haiti who are waiting for an immigrant visa to be issued in the next 18 to 36 months.²⁸ Once in the United States, they can apply for work authorization. The program was created to allow the relatives of U.S. citizens and LPRs to leave earthquake-ravaged Haiti while their visa was pending. Enrollees must be invited to participate by USCIS, which has not issued new invitations since the closure of its field office in Haiti in December 2019 and, due to COVID, reduced services at the U.S. Embassy.²⁹ However, DHS has announced that the program will be reopened and reconstituted in the fall of 2022.³⁰

Filipino World War II Veterans Parole Program

Announced in June 2016, the Filipino World War II Veterans Parole Program was created to reunite an estimated 2,000-6,000 elderly Filipino veterans with their family members who could assist with their care. The program allows certain Filipino World War II veterans and their spouses who are U.S. citizens or LPRs to request parole for specific family members outside of the United States who have already-approved visa petitions, so that they may come to the United States while they wait out lengthy backlogs for a visa to be issued. If approved, parole allows the family member overseas to travel to the United States before an immigrant visa becomes available but does not alter the number of visas being issued.³¹ These parolees also are eligible to apply for work authorization.

Military Parole in Place

Certain undocumented relatives of U.S. military members can seek parole in place, allowing them to lawfully remain in the United States for one-year increments, by applying to USCIS. To be eligible, the applicant must be the spouse, widow(er), parent, son, or daughter of an active-duty member of the U.S. armed forces; an individual in the Selected Reserve of the Ready Reserve; or an individual who previously served on active duty or in the Selected Reserve of the Ready Reserve and was not dishonorably discharged.³²

International Entrepreneur Parole

DHS can use its parole authority to allow foreign entrepreneurs a temporary stay in the United States if they can demonstrate that there is a significant public benefit through their business ventures.³³

Terminated Parole Programs

In 2017, multiple parole programs were terminated. In the final week of his Presidency on January 12, 2017, the Obama administration ended the Cuban Medical Professional Parole Program,³⁴ as well as the special parole policy for arriving Cuban nationals known as the “wet foot/dry foot” policy.³⁵

ENDNOTES

1. 1 INA § 212(d)(5)(A).
2. U.S. Citizenship and Immigration Services, “Humanitarian or Significant Public Benefit Parole for Individuals Outside the United States,” last updated June 23, 2022, <https://www.uscis.gov/humanitarian/humanitarian-or-significant-public-benefit-parole-individuals-outside-united-states>.
3. *Ibid.*
4. 8 C.F.R. § 212.5(d); In 2008, the immigration agencies signed a memorandum of agreement to coordinate the exercise of parole. “Memorandum of Agreement Between United States Citizenship and Immigration Services (USCIS), United States Department of Homeland Security, United States Immigration and Customs Enforcement (ICE), United States Department of Homeland Security, and United States Customs and Border Protection (CBP), United States Department of Homeland Security,” Immigration and Customs Enforcement, September 2008, <https://www.ice.gov/doclib/foia/reports/parole-authority-moa-9-08.pdf>.
5. ICE Directive 11002.1, John Morton, Asst. Sec. ICE, “Parole of Arriving Aliens Found to Have a Credible Fear of Persecution or Torture,” December 8, 2009, https://www.ice.gov/doclib/dro/pdf/11002.1-hd-parole_of_arriving_alien_found_credible_fear.pdf.
6. U.S. Customs and Border Protection, “The Exercise of Discretionary Authority,” September 3, 2008, www.aila.org/File/DownloadEmbeddedFile/47306; “Memorandum of Agreement Between United States Citizenship and Immigration Services (USCIS), United States Department of Homeland Security, United States Immigration and Customs Enforcement (ICE), United States Department of Homeland Security, and United States Customs and Border Protection (CBP), United States Department of Homeland Security,” September 2008, <https://www.ice.gov/doclib/foia/reports/parole-authority-moa-9-08.pdf>.
7. U.S. Citizenship and Immigration Services, “Humanitarian or Significant Public Benefit Parole for Individuals Outside the United States,” Department of Homeland Security, last updated June 23, 2022, <https://www.uscis.gov/humanitarian/humanitarian-or-significant-public-benefit-parole-individuals-outside-united-states>.
8. U.S. Citizenship and Immigration Services, “Guidance on Evidence for Certain Types of Humanitarian or Significant Public Benefit Parole Requests,” last updated June 23, 2022, <https://www.uscis.gov/humanitarian/humanitarian-parole/guidance-evidence-certain-types-humanitarian-or-significant-public-benefit-parole-requests>.
9. U.S. Citizenship and Immigration Services, “Humanitarian or Significant Public Benefit Parole for Individuals Outside the United States,” last updated June 23, 2022, <https://www.uscis.gov/humanitarian/humanitarian-or-significant-public-benefit-parole-individuals-outside-united-states>.
10. See e.g., U.S. Citizenship and Immigration Services, “Travel Documents,” last updated July 1, 2022, <https://www.uscis.gov/travel-documents>; U.S. Customs and Border Protection, “Advance Parole,” last updated July 22, 2019, <https://www.cbp.gov/travel/us-citizens/advance-parole>.
11. INA § 244(f)(3).
12. U.S. Citizenship and Immigration Services, “Policy Memorandum PM-602-0188, Rescission of Matter of Z-R-Z-C- as an Adopted Decision; agency interpretation of authorized travel by TPS beneficiaries,” July 1, 2022, <https://www.uscis.gov/sites/default/files/document/memos/PM-602-0188-RescissionofMatterofZ-R-Z-C-.pdf>.

ENDNOTES (CONTINUED)

13. See the “Determining Who is Authorized Parole” heading for a more complete list of discretionary factors. U.S. Citizenship and Immigration Services, “Humanitarian or Significant Public Benefit Parole for Individuals Outside the United States,” last updated June 23, 2022, <https://www.uscis.gov/humanitarian/humanitarian-or-significant-public-benefit-parole-in-dividuals-outside-united-states>.
14. *Ibid.*
15. *Ibid.*
16. *Ibid.*
17. *Ibid.*
18. *Ibid.*
19. *Ibid.*
20. *Ibid.*
21. ICE Directive 11002.1, John Morton, Asst. Sec. ICE, “Parole of Arriving Aliens Found to Have a Credible Fear of Persecution or Torture,” December 8, 2009, https://www.ice.gov/doclib/dro/pdf/11002.1-hd-parole_of_arriving_alien_found_credible_fear.pdf.
22. U.S. Citizenship and Immigration Services, “Uniting for Ukraine,” last updated June 24, 2022, <https://www.uscis.gov/ukraine>.
23. U.S. Citizenship and Immigration Services, “Information for Afghan Nationals on Requests for to USCIS for Humanitarian Parole,” last updated June 23, 2022, <https://www.uscis.gov/humanitarian/humanitarian-parole/information-for-afghan-nationals-on-requests-to-uscis-for-humanitarian-parole>.
24. U.S. Citizenship and Immigration Services, “Central American Minors (CAM) Refugee and Parole Program,” last updated June 22, 2022, <https://www.uscis.gov/CAM>
25. U.S. Citizenship and Immigration Services, “The Cuban Family Reunification Parole Program,” last updated June 22, 2022, <https://www.uscis.gov/humanitarian/humanitarian-parole/cuban-family-reunification-parole-program>.
26. *Ibid.*
27. Department of Homeland Security, “Fact Sheet: DHS Resumes Cuban Family Reunification Parole (CFRP) Program and Haitian Family Reunification Parole (HFRP) Program Operations,” June 9, 2022, <https://www.dhs.gov/news/2022/06/09/fact-sheet-dhs-resumes-cuban-family-reunification-parole-cfrp-program-and-haitian>.
28. U.S. Citizenship and Immigration Services, “The Haitian Family Reunification Parole (HFRP) Program,” last updated June 22, 2022, <https://www.uscis.gov/HFRP>.
29. *Ibid.*
30. Department of Homeland Security, “Fact Sheet: DHS Resumes Cuban Family Reunification Parole (CFRP) Program and Haitian Family Reunification Parole (HFRP) Program Operations,” June 9, 2022, <https://www.dhs.gov/news/2022/06/09/fact-sheet-dhs-resumes-cuban-family-reunification-parole-cfrp-program-and-haitian>.
31. U.S. Citizenship and Immigration Services, “Filipino World War II Veterans Parole Program,” last updated June 22, 2022, <https://www.uscis.gov/fwvp>.
32. U.S. Citizenship and Immigration Services, “Discretionary Options for Military Members, Enlistees and Their Families,” last updated April 25, 2022, <https://www.uscis.gov/military/discretionary-options-for-military-members-enlistees-and-their-families>.
33. U.S. Citizenship and Immigration Services, “International Entrepreneur Parole,” last updated April 4, 2022, <https://www.uscis.gov/humanitarian/humanitarian-parole/international-entrepreneur-parole>.
34. Under this program, which began in 2006, doctors and other professionals in the health field who were sent by the Government of Cuba to work or study in third countries could request parole into the United States. In addition, the spouses and unmarried children under the age of 21 of individuals meeting the program’s criteria could be included in the parole request. The program was ended in January 2017 as part of the agreement between the United States and Cuba normalizing relations.
35. Department of Homeland Security, “Fact Sheet: Changes to Parole and Expedited Removal Policies Affecting Cuban Nationals,” January 12, 2017, <https://www.dhs.gov/sites/default/files/publications/DHS%20Fact%20Sheet%20FINAL.pdf>.