

The ABC'S Of Immigration: Parole Status

by Gregory Siskind

What is parole status?

An individual who is ineligible to enter the US as a refugee, immigrant or nonimmigrant may be "paroled" into the US by the Secretary of Homeland Security. This provision of the law is only used for emergency, humanitarian and public interest reasons. The individual who is paroled into the US is known as a "parolee".

What are the different kinds of parole status?

An individual may be paroled into the US under either Humanitarian Parole or Public Interest Parole.

Who can request parole status?

Humanitarian Parole can only be requested for persons who are outside of the U.S. Anyone can file an application for humanitarian parole to include the prospective parolee, a sponsoring relative, an attorney or any other interested individual.

Are there special provisions for nationals of certain countries?

Public Law 101-67, also known as the Specter Amendment (formerly the Lautenberg Amendment) allows for the adjustment of status of individuals who are nationals of the former Soviet Union, Vietnam, Laos and Cambodia. These parolees may apply for green cards if they were paroled into the US between August 15, 1988 and September 30, 2004.

Can Humanitarian Parole applications be adjudicated for individuals currently in the United States?

Request for humanitarian parole can only be accepted for individuals who are currently outside of the United States.

How does an individual apply for parole status?

Requests for Humanitarian Parole must be submitted to the following address:

Department of Homeland Security
425 I Street, NW
ATTN: Parole and Humanitarian Assistance Branch
Washington, DC 20536

A request for humanitarian parole may be submitted by anyone and should be submitted on Form I-131, Application for Travel Document. There is a filing fee for filing applications for humanitarian parole. Additionally, Form I-134, Affidavit of Support, is also needed to

ensure that the applicant will not become a public charge. A parole request should include information that is specific, verifiable and complete. Evidence of the claimed circumstances should also be submitted.

Canadians must submit Form I-131, Application for Travel Document to the Director of the office that has jurisdiction over the area where the alien intends to enter the United States.

How can I find out the status of my application?

To check the status of your application, please contact the Parole and Humanitarian Assistance Branch, Washington, D.C. directly in writing. Please provide them with specific information about your application.

Does Humanitarian Parole expire?

Humanitarian paroles are granted for a period of time to coincide with the duration of the emergency or humanitarian situation that forms the basis for the request. There is a maximum time limit of 1 year.

What can I do if my case is not approved?

The denial of a request for humanitarian parole is a discretionary determination based upon a review of all of the evidence submitted. There is no statutory provision for appeal. If there are new facts that you would like considered however, a new submission may be sent to the Parole and Humanitarian Assistance Branch as a new case for consideration, with a new filing fee.

Can parolees work in the US?

Public interest parolees may apply for work authorization on Form I-765, Application for Employment Authorization. Parolees admitted for humanitarian or emergency reasons are not eligible to apply for employment authorization.

Can parolees apply for green cards (permanent resident status)?

Only parolees granted through the Specter Amendment, Cuban/Haitian parolees, or South East Asian Public Interest Parolees (PL 106-429) can apply for green cards. These individuals may apply for green cards after one year of physical residence in the US on Form I-485, Application to Register Permanent Residence or Adjust Status with the appropriate fees (applicant aged 14-79 must also pay a fingerprinting fee). These individuals must also submit medical exam results.

Individuals paroled for humanitarian or other emergency reasons are not eligible to apply for green cards as parolees. They can apply if they qualify under another immigration provision, such as employment.

Can a parolee file an immigrant petition on behalf of a relative abroad?

A parolee can file an immigrant petition on behalf of a relative abroad provided that the parolee has already adjusted to permanent resident status. However, if the relative is otherwise eligible for refugee processing, the parolee can file an affidavit of relationship on the relative's behalf.

Can parolees travel abroad?

Only parolees who have adjusted their status to permanent residents may travel abroad using a travel document.

Can parolees apply for citizenship?

Parolees are eligible to apply for citizenship five years from the date they entered the US as parolees if they have already adjusted to permanent resident status.

Gregory Siskind (gsiskind@visalaw.com) is a partner in the law firm of Siskind, Susser, Haas and Devine (www.visalaw.com), which has offices in the United States and around the world. He is an active member of the American Immigration Lawyers Association (AILA). He is a member of the American Bar Association (ABA), where he currently serves as Chairman of the Law Practice Management Publishing Board and on the Governing Council of the Law Practice Management Section. He was one of the first lawyers in the country (and the very first immigration lawyer) to set up a website for his practice and he was the first attorney in the world to distribute a firm newsletter via e-mail listserv. He is a co-author of *The J Visa Guidebook* published by LexisNexis Matthew Bender, and the author of *The Lawyer's Guide to Marketing on the Internet*, published by the ABA. He graduated magna cum laude from Vanderbilt University and received his law degree from the University of Chicago.