



**AILA Quarterly Engagement
Questions & Answers
Thursday, Dec. 14, 2023
2-3:30 p.m. Eastern**

On Dec. 14, 2023, USCIS and the American Immigration Lawyers Association (AILA) met to discuss topics related to parole. AILA submitted the questions below, which USCIS answered. Please note that some of the questions may have been revised for clarity.

Topic 1: Renewal of Parole

Q1: Please discuss USCIS' plans for implementing a process to renew parole for the following programs:

- Uniting for Ukraine
- Processes for Cubans, Haitians, Nicaraguans, and Venezuelans
- Parole under INA §212(d)(5) for those not eligible for the processes for Cubans, Haitians, Nicaraguans, and Venezuelans, and who were paroled at time of entry
- Family Reunification Parole processes for those whose priority dates are still not current at the end of their parole

A1: We are discussing within the Department of Homeland Security (DHS) any next steps related to U4U, as well as the processes for Cubans, Haitians, Nicaraguans, and Venezuelans, and the family reunification parole (FRP) processes.

Q1a: What procedures will USCIS follow for these groups when their authorized period of parole expires?

A1a: See response to question 1.

Q1b: How far in advance can an applicant apply for a renewal of parole, and will this also apply to Advance Parole renewals?

A1b: See response to question 1.

Q2: For parolees under the Family Reunification Parole processes, will they be subject to INA §245(c) if they are not able to timely renew their parole?

A2: Whether an applicant applying for adjustment of status is subject to one or more bars under INA §245(c) depends on the immigrant category the applicant is applying under. We cannot make an exception to statutory bars for individuals who fail to continuously maintain a lawful status.



Topic 2: Employment Authorization for Parolees

Q3: Would USCIS consider providing employment authorization documents in increments of 2 or 5 years, similar to how USCIS has provided it for other categories?

A3: USCIS provides parole-based Employment Authorization Documents (EADs) consistent with the period of parole. The periods of EAD validity will vary because the duration of parole periods varies.

Q4: INA § 212(d)(5) parole evidence is not always issued to migrants, even those in the same family or travel group. Delays between release and removal proceedings can sometimes take years, leaving migrants in limbo. Prior to submission of the Notice to Appear (NTA) that initiates removal proceedings, can either USCIS or CBP exercise jurisdictional authority to provide evidence of 212(d)(5) parole or parole extension at either Deferred Inspection or Field Office locations, if the individuals are able to establish that they merit a grant of parole on a case-by-case basis?

A4: When USCIS approves a parole request, we issue a Form I-512, Advance Parole Document, or an EAD, with travel endorsement, a Form I-94, Arrival/Departure Record, or a parole authorization letter to the beneficiary of the request. U.S. Customs and Border Protection (CBP) is responsible for providing evidence of parole to the noncitizens it paroles into the United States at a port of entry. We are aware that the Department and CBP are looking at challenges stakeholders have elevated on the ability to locate a digitized I-94 and ways to better address issues around evidence of parole.

Q4a: Relatedly, can individuals still be eligible to renew parole with USCIS if their INA § 240 removal proceedings are terminated?

A4a: USCIS would generally defer to CBP or Immigration and Customs Enforcement (ICE) on their jurisdiction to consider a request for re-parole for someone who was paroled to attend a removal proceeding.



Q5: Would USCIS consider providing guidance on fee waivers for Form I-765 applicants which would greatly assist parolees who may not have legal counsel and are filing applications without fully understanding the requirements? Valuable time is lost when applications are rejected for easily avoidable reasons.

A5: We encourage you to direct individuals to our website, which explains how to file a Form I-912, Request for Fee Waiver (uscis.gov/forms/filing-fees/additional-information-on-filing-a-fee-waiver).

Q5a: Could USCIS review its mailroom protocols with the facilities accepting EAD applications to help reduce incorrect rejections when a fee waiver is requested?

A5a: Without reviewing specific cases, we cannot determine if a fee waiver rejection is correct or incorrect. If you file a case at a lockbox and you believe we incorrectly rejected it because we handled a fee waiver request incorrectly, email lockboxsupport@uscis.dhs.gov. As a regular course of action, USCIS reviews fee waiver rejections to determine if there are key issues resulting in rejections, such as the type of evidence we are receiving. Our analysis of this data determines if our standard operating procedures or policy should be changed.

Topic 3: Online Filing Issues for Parole

Q6: For the processes for Cubans, Haitians, Nicaraguans, and Venezuelans and Family Reunification Parole processes, CBP will post the advance travel authorization (ATA) determination to the beneficiary's USCIS online account. However, in cases where the ATA is denied, no basis is given and there is no opportunity to respond or provide more information. Can USCIS and CBP coordinate so that there are remedies other than the supporter refiling the parole application? This is particularly important as supporters have reported rejected or denied resubmitted parole applications and resubmission of Form I-134A results in additional volume in the USCIS online filing system that could be avoided.

A6: CBP is responsible for determining whether to issue advance travel authorization to beneficiaries and for issuing these documents. Due to the secure nature of the vetting and screening process, CBP cannot offer additional information about the process, or provide additional details about the status or result of a beneficiary's consideration for travel authorization. If CBP denies the travel authorization, CBP cannot explain why the denial occurred. However, we can pass along your feedback to them, particularly when they deny travel authorization.



Q6a: Could additional documentation be submitted as unsolicited evidence in the Notices tab after the ATA determination, given that this is currently an option when there is a change/correction/update of beneficiary name, email address, date of birth, passport number, or country of citizenship, prior to the ATA determination?

A6a: No, once the Advance Travel Authorization has been issued, the supporter and beneficiary will not be able to make any corrections to the biographical information for the beneficiary. The supporter may file a new Form I-134A, Online Request to be a Supporter and Declaration of Financial Support, on behalf of their beneficiary.

Please note that before attesting, beneficiaries should review their biographical information and ensure it is correct to avoid this scenario and delays in processing their case.

Q6b: Based on the previous question, the overall process of submitting Form I-134A is not always an easy process for supporters to submit *pro se*. Unfortunately, USCIS has not made Form I-134A available in the representative USCIS online account. As a result, attorneys are not able to effectively assist clients in preparing and filing this form for their clients. They are also not able to submit Form G-28 to be able to receive a copy of correspondence from USCIS in the case, or otherwise monitor the progress of these cases. Would USCIS consider enabling attorney access to Form I-134A?

A6b: At this time, we have no immediate plans to add an option for an attorney or accredited representative to use an online representative account to file a Form I-134A on behalf of a supporter, or to submit travel authorization information on behalf of a beneficiary after confirmation of the Form I-134A.

Q6c: With respect to reapplications on Form I-134A for previously denied applications, is there a technical issue in the system which prohibits the same petitioner from resubmitting Form I-134A, or is there a required wait time between denial and reapplication?

A6c: Supporters may file more than one Form I-134A for different beneficiaries. However, if they file another Form I-134A for the same beneficiary while we are still reviewing a Form I-134A they filed earlier, we will reject both filings. If we finish reviewing a Form I-134A and we do not confirm it, the supporter may submit a new form immediately.



Topic 4: Family Reunification Parole Program

Q7: What criteria does DHS or the Biden Administration use to determine which countries are included in the Family Reunification Parole process and which individuals from those countries are invited to participate in the program?

A7: The new Family Reunification Parole (FRP) processes are part of sweeping measures [announced in April by DHS and the Department of State](#) to further reduce irregular migration across the Western Hemisphere, significantly expand lawful pathways, and facilitate safe, orderly, and humane processing of migrants. Determining which countries are included in the FRP processes is a deliberative process that takes place across several departments. This process considers multiple factors, including international commitments, foreign policy, urgent humanitarian concern, significant public benefit, and operational capacity. DHS continuously evaluates the multiple factors that go into these determinations, as evidenced by its recent creation of an FRP process for Ecuadorians.

Topic 5: Humanitarian Parole

Q8: Please comment on what actions the agency is undertaking to expedite processing of humanitarian parole applications, given the exigent circumstances under which applicants live.

A8: USCIS has taken several actions to increase processing efficiencies for Form I-131 parole filings for individuals outside of the United States requesting parole for urgent humanitarian reasons or significant public benefit. Since October 2021, we have substantially increased the number of staff processing parole requests, and have assigned detailees from across the agency to supplement adjudicating the unprecedented number of filings on behalf of Afghan nationals and others received since August 2021. Additionally, we have employed technological solutions, such as transitioning parole case processing to the USCIS Electronic Immigration System (ELIS), allowing for more efficient and streamlined processing.

In late 2022, USCIS enabled access to the USCIS online account for individuals with pending Form I-131 parole requests so they can view and manage their applications online. The USCIS online account allows petitioners to more easily access case status information, upload responses to requests for evidence, submit additional, unsolicited evidence to support their parole request, and update address and location information for beneficiaries electronically.

In June 2023, USCIS sent a Courtesy Notice of Policy Change to all petitioners and representatives of petitioners with pending parole requests for Afghan nationals. The



notice highlighted changes made to USCIS' adjudicative guidance relating to Afghan parole requests. The updated guidance identifies additional characteristics that may be considered as strong positive factors when assessing urgent humanitarian reasons and significant public benefit for parole and the exercise of discretion. We also added these updates to the USCIS webpage.

Additionally, we have strongly encouraged attorneys and accredited representatives of record to submit additional evidence, if available, through their USCIS online account as described in the notice, so as to not lose precious time in the request for evidence process for information that could be provided in the interim.

USCIS continues to explore ways to increase processing efficiencies for humanitarian parole filings. We remain committed to assisting applicants in urgent situations.

Q8a: For Afghan humanitarian parole applicants, can USCIS provide current information on the total number of pending cases, average application processing times and approval/denial rates?

A8a: There are approximately 35,130 Form I-131 parole requests filed with USCIS on behalf of Afghan nationals pending adjudication as of Dec. 14, 2023. USCIS processes a variety of Form I-131 parole requests for individuals outside of the United States, including expedited processing for cases involving life-threatening or other extremely urgent circumstances, settlement-related processing, and policy-related processing priorities. As a result, we cannot categorically adjudicate these requests on a first-in, first-out basis, so we cannot post an average processing time for these types of parole requests.

In fiscal year 2023, the approval rate for initial Form I-131 filings on behalf of Afghan national beneficiaries was approximately 43%. This includes beneficiaries we conditionally approved for parole pending final vetting and parole processing outside the United States. It also includes beneficiaries we issued Notices of Continued Parole Processing for, after determining that they appeared initially eligible for parole but, because they were located in Afghanistan or in another location with no U.S. embassy or consular presence, could not complete parole processing.

Q8b: Can USCIS add Form I-131 (humanitarian parole) processing times to its case processing times website?

A8b: USCIS processes a variety of Form I-131 parole requests for individuals outside of the United States, including expedited processing for cases involving life-threatening or other extremely urgent circumstances, settlement-related processing, and policy-related processing priorities. As a result, we cannot categorically decide these requests on a



first-in, first-out basis, so we cannot post an average processing time for these types of parole requests.

Q8c: How long can one expect to wait to receive a decision on an expedite request? Members report many months passing with no decision on the expedite request. In addition, in some instances an expedite request is granted but the case continues to remain pending for many months.

A8c: USCIS reviews all humanitarian parole requests to determine urgency on a case-by-case basis, even if expedited processing is not specifically requested. We have sole discretion to decide whether to accommodate an expedite request. If we determine expedited processing is appropriate, we will prioritize adjudicating the request. We do not routinely provide individual responses to notify petitioners or their representatives of record that we decided to expedite their request.

Q9: Can USCIS provide fact-based explanations for denials? The boilerplate denials provide little insight into the basis of the decision or how an applicant might improve their application. Waiting months for the parole decision, to then receive a boilerplate denial with no reasons provided as to why the particular case did not meet the criteria, makes it difficult for attorneys and their clients to understand the potential error. Attaching an example of the boilerplate denial for reference.

A9: USCIS strives to provide adequate explanations in its denial notices that comport with laws and regulations and allow the agency to process parole requests in a streamlined and consistent manner. We consider each parole request and review the evidence provided on a case-by-case basis, taking into account all of the circumstances. Our [Humanitarian Parole](#) webpage provides detailed information on eligibility for parole, including guidance on evidence relevant to certain types of parole requests. If an individual received a denial notice related to their parole request, and they believe we incorrectly decided their case, they may file a motion requesting USCIS to reconsider the decision, reopen the proceeding, or both, by filing a Form I-290B, Notice of Appeal or Motion.

Topic 6: Cuban Adjustment Act

Q10: Are Cubans who have been issued an I-220A (Order of Release on Recognizance) considered paroled, so as to be eligible to adjust status after one year under the Cuban Adjustment Act (“CAA”)?

A10: The Board of Immigration Appeals (BIA) issued a precedent decision in *Matter of Cabrera-Fernandez*, 28 I&N Dec. 747 (BIA 2023), in which the BIA held that only a parole under INA 212(d)(5) constitutes a parole for purposes of adjustment of status.



The BIA also held that a release on one's own recognizance under section INA 236(a)(2)(B), referred to as a conditional parole, does not constitute a parole for purposes of adjustment of status.

Consistent with *Matter of Cabrera-Fernandez*, USCIS will deny a Form I-485, Application to Register Permanent Residence or Adjust Status, if the applicant has not established that they were inspected and admitted into the United States or inspected and paroled into the United States under INA 212(d)(5), which is required to be eligible for adjustment of status under the Cuban Adjustment Act or under INA 245(a). As part of the Form I-485 adjudication process, we will review the record to determine whether it appears that, when DHS released an individual from custody, the individual should have been issued parole paperwork under INA 212(d)(5). In such cases, we will contact and coordinate with the releasing DHS agency to obtain INA 212(d)(5) parole documentation as of the date of the individual's release from DHS custody. If the applicant has a Form I-485 pending with USCIS and believes DHS issued incorrect release paperwork to the applicant, they do not need to contact the releasing DHS agency to seek corrective paperwork reflecting a release on parole under INA 212(d)(5).

Q11: If a Cuban entrant has been paroled into the U.S. under INA §212(d)(5), will USCIS allow them to adjust status under the CAA?

A11: See response for Question 10.

Topic 7: Parole in Place

Q12: Is USCIS considering non-military parole-in-place requests, for example, from stateless individuals?

Answer 12: Yes. USCIS may, in our discretion, grant parole in place on a case-by-case basis for urgent humanitarian reasons or significant public benefit under section 212(d)(5)(A) of the Immigration and Nationality Act. USCIS may grant such parole in place in 1-year increments.

USCIS can only grant parole in place to a noncitizen who is present in the United States without admission and is an applicant for admission. Information on parole-in-place requests for noncitizens who believe they are stateless is available on our [Statelessness](#) webpage.



Q12a: If so, what is the appropriate procedure to submit such a request? Is there a filing fee?

A12a: There is currently no filing fee for parole-in-place requests filed by noncitizens who believe they are stateless. To submit a request for parole in place, a noncitizen should:

- File Form I-131, Application for Travel Document, by mailing the application and supporting documents to the USCIS field office that has jurisdiction over where they live;
- Handwrite “PIP” in Part 2 instead of checking a box;
- Provide the name of the country where you are a citizen or national in box 2.f., Country of Citizenship. This is not necessarily the country where you were born. If you do not have citizenship in any country, type or print “stateless”; and
- Include a letter stating the basis for your parole-in-place request.
- Additional information relevant to stateless noncitizens is available on our [Statelessness](#) webpage.

Q12b: Is it also possible for derivative spouses and children to apply?

A12b: Each noncitizen requesting parole in place must submit a request as indicated above. However, to facilitate parallel processing of family members submitting requests, USCIS recommends that principal requestors file the separate requests together in the same envelope and indicate the family relationships in the filings.

Q13: Will USCIS consider granting renewals of non-military parole-in-place?

A13: Noncitizens whose parole in place periods are expiring must request a new period of parole (also known as re-parole) if they want to remain in the United States.

Q13a: Is a renewal required once an application for adjustment of status has been filed?

A13a: A noncitizen who is in a period of parole when they file their application for adjustment should determine whether they want to request a new period of parole. However, note that any noncitizen who was granted parole in place, regardless of whether their parole period lapses, is generally barred from adjustment by INA 245(c)(2), unless they are applying in a category that is exempt from that statutory provision.



Topic 8: General Parole Information

Q14: In order for AILA members to better advise their clients on USCIS processing of parole applications, would USCIS be willing to provide a quarterly adjudication report listing each applicant's country of nationality, RFE rate, approval/denial percentages and average processing time?

A14: USCIS processes a variety of Form I-131 parole requests for individuals outside of the United States, including expedited processing for cases involving life-threatening or other extremely urgent circumstances, settlement-related processing, and policy-related processing priorities. As a result, we cannot categorically adjudicate these requests on a first-in, first-out basis, so we cannot post an average processing time for these types of parole requests.