

DISCLAIMER: *The following information is not legal advice. It is for educational and informational purposes only. If you need legal advice, consult a licensed immigration attorney or an accredited representative from a Board of Immigration Appeals (BIA) recognized agency. An undocumented immigrant should not seek legal advice from a notario or an "immigration consultant" who is not accredited by the BIA*

Episcopal Community
Services of Long Island
Immigration Network
135-32 38th Avenue
Flushing, NY 11354
347-368-6395

Temporary Protected Status - Haiti

The Department of Homeland Security (DHS) Secretary, Janet Napolitano, has determined that an 18-month designation of Temporary Protected Status (TPS) for Haiti is warranted because of the devastating earthquake and aftershocks which occurred on January 12, 2010. As a result, Haitians in the United States (and other individuals without nationality who last habitually resided in Haiti) are unable to return safely to their country. DHS will continue to work with other branches of the United States Government to closely monitor developments in Haiti to determine the need for additional action.

United States Citizenship and Immigration Services (USCIS) will efficiently and timely process immigration applications for TPS filed by nationals of Haiti. Further detailed information will be posted in the Federal Register Notice announcing the Secretary's decision to designate Haiti. DHS estimates that approximately 100,000 to 200,000 individuals will be eligible for TPS.

Questions and Answers

1. What is Temporary Protected Status?

TPS is a temporary immigration status granted to eligible nationals of a certain country (or persons without nationality who last habitually lived in that country) designated by the Secretary of Homeland Security because that country has experienced temporary negative conditions, such as armed conflict or an environmental disaster, that prevent nationals of the country from returning safely or for the country to handle their return adequately. TPS beneficiaries are allowed to remain in the United States and can legally work for a set time period. (See Section 244 of the Immigration and Nationality Act (INA), 8 U.S.C. § 1254a.)

2. I am a Haitian national; currently I cannot return to Haiti due to the earthquake and would like to apply for TPS. Am I eligible to apply for TPS?

To qualify, you must:

Be a national of Haiti, or a person without nationality who last habitually resided in Haiti

Have continuously resided in the U.S. since January 12, 2010.

Have been continuously physically present in the U.S. since the date of the Federal Register Notice publication, and

Meet certain immigrant admissibility requirements, and other TPS eligibility requirements (See INA § 244(c), 8 U.S.C. § 1254a and 8 C.F.R. §§ 144.2-244.4.)

Satisfactorily complete all TPS application procedures as described in the Federal Register notice announcing Haitian TPS, the TPS application instructions (Form I-821), and regulations at 8 C.F.R. §§ 244.6 - 244.9.

3. I am a Haitian national; when can I submit my initial application for TPS?

The registration period will start on the date the Federal Register notice is published and continue for 180 days from that date. You must file during the 180-day registration period. Your application will be considered as being properly filed if it is postmarked on or before the last day of the registration period.

4. I am a Haitian national; how do I apply for TPS?

You must register by filing both an Application for Temporary Protected Status (Form I-821) and an Application for Employment Authorization (Form I-765), with any appropriate fees (see table below) or fee waiver requests.

If you are	And	Then,	And,
Applying for initial TPS and you are between the ages of 14 and 65 (inclusive)	You are applying for a TPS-related EAD	You must submit the \$50 Form I-821 application fee	You must submit the \$340 Form I-765 application fee
Applying for initial TPS and you are under age 14 or over age 65	You are applying for a TPS-related EAD	You must submit the \$50 Form I-821 application fee	You do not need to submit the Form I-765 application fee
Applying for initial	You are not applying for a	You must submit the \$50 Form I-	You do not need to submit the Form I-

TPS, regardless of age	TPS-related EAD	821 application fee	765 application fee
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You must use the version of Form I-821 dated 10/17/2007 or later and the version of Form I-765 dated 5/27/2008 or later. Failure to use these versions of the forms may result in rejection of your applications.

You must take care in filling out the forms and ensure that all questions are answered. Failure to completely answer any questions may result in a delay of case processing.

If you are age 14 or over: you must also pay an \$80 biometric fee, or submit a fee waiver request.

You should not file your application prior to the date of the Federal Register notice publication.

5. Where can I obtain the necessary forms for TPS?

These forms are available by calling the toll-free USCIS Forms Hotline (800) 870-3676 or by selecting Forms on the USCIS Web site: www.uscis.gov.

6. I am a Haitian national applying for TPS; what is the filing fee to apply for TPS?

The fee for Form I-821 is \$50.

A separate \$80 biometric fee is required if you are age 14 or older.

A \$340 fee must accompany Form I-765 for employment authorization if you are age 14 to 65.

If you do not require employment authorization, Form I-765 is still required but no fee is necessary.

7. What if I cannot afford to pay for filing and/or biometrics fees?

You may request a waiver of TPS-related application fees and/or the biometrics fee by submitting a fee waiver request with **proper documentation** of inability to pay. Such documentation would include:

Receiving a federal/state benefits that is determined by your level of income, or

Evidence of household income that is below Federal poverty guidelines; or

Evidence of extraordinary expenses incurred when compared to income such as high medical bills

Fee waivers may also be given for humanitarian reasons such as disability, homelessness or age. Documentation must also be provided to support these claims. All documentation must be in English or translated into English.

An individual who requests a fee waiver must state exactly which fees (e.g., Form I-821 application fee, Form I-765 application fee; and/or the biometrics services fee) he or she wants waived. In order to obtain a fee waiver, you must submit, with these forms, a written statement, made under oath, affirmation, or pursuant to 28 USC 1746, under penalty of perjury. In the written statement you must state that you believe you are eligible for TPS and that you want the fees waived. You must also explain why you are unable to pay the required fees.

8. What type of basic supporting documentation must I submit?

The filing instructions for Form I-821, list all the documents needed to establish basic eligibility for TPS.

In addition, you must submit two color passport-style photographs of yourself and evidence that you meet the basic eligibility requirements for TPS to include evidence that you:

are a national of Haiti or a person with no nationality who last habitually resided in Haiti (such as a copy of your passport or birth certificate)

continuously resided in the United States since January 12, 2010; and

have been continuously physically present in the United States since the date of the publication of the Federal Register Notice.

9. Do I need to submit any additional supporting documentation?

Depending on the nature of the question(s) you are addressing, additional documentation alone may be sufficient, but usually a written explanation will also be needed.

10. What if I cannot get the documentation proving that I am a Haitian national because of the devastation in my country?

To prove that you are a national of Haiti, you can submit either a copy of your Haitian passport or a copy of your birth certificate, showing that you were born in Haiti. We expect that most Haitian TPS applicants should have a passport and may submit a copy of it even if it has expired.

If you do not have a Haitian passport and are unable to obtain your birth certificate from Haiti, you will need to submit secondary evidence. This secondary evidence can be any other documentation you already have in your possession from Haiti, showing that you are a national or citizen of Haiti. Secondary evidence can also be in the form of your baptismal certificate from Haiti, sworn affidavits from close family members providing the specific details of the date and place of your birth and how they know this information. If any document is not in English it must be accompanied by an English translation. The person translating the document must certify that he or she is competent in English and the foreign language from which the document is translated and that

the translation is true and correct to the best of his or her ability, knowledge and belief.

If you are a person with no nationality that last habitually resided in Haiti, you must show that you are stateless. That is, that you have no nationality at all. You must submit a statement explaining why you are stateless. You must also submit any documentation you may have from Haiti showing that you last habitually resided there. If that documentation is not available, you may submit sworn affidavits from close friends and family members who have direct knowledge of your residence in Haiti. Again, any documents not in English must be accompanied by a certified English translation.

11. How do I prove continuous physical presence and continuous residence in the United States?

There are a number of different types of documents that you can submit proving your continuous residence in the United States since January 12, 2010 and your continued physical presence in the United States since the date the Federal Register notice was published designating Haiti for TPS. For example, you can submit job letters from your current and former employers showing where you have worked, rent receipts, payroll stubs, bank statements, school records, or any other documents you may have showing your continuous physical presence and continuous residence in the U.S

12. Where do I submit my TPS package applications?

This information will become available after the Federal Register notice is published. Please do not try to file your applications prior to that date.

13. Can I apply electronically via the Web?

No, you cannot file electronically. Electronic filing is not available for initial TPS registrations.

14. I am a Haitian national who has applied for TPS. What should I do if I am scheduled for an appointment at the Application Support Center (ASC) but am unable to make my appointment?

If you are unable to appear for your ASC appointment, your application may be denied for abandonment.

15. How do I reschedule my ASC appointment for biometrics?

To request rescheduling of an ASC appointment, please make a copy of your appointment notice to retain for your records, then mail the original notice with your rescheduling request to the ASC address listed on the notice. A new appointment notice will be sent to you by mail. Please note that rescheduling a biometrics appointment may cause the adjudication of your applications to be delayed.

16. Will I receive authorization to work? What documents do I use as proof of employment authorization?

After you file your Form I-765, Application for Employment Authorization (EAD), and Form I-821, and pay the appropriate fees (or you are granted a fee waiver), USCIS will review your applications. Once this preliminary processing has been completed, you will be issued an Employment Authorization Document. USCIS will not grant employment authorization until after your biometrics are collected at an ASC and a background check is performed. Once we have completed processing your TPS application, you will receive a written notice of our decision.

If you have obtained an EAD you may present your valid EAD to an employer as proof of employment authorization and identity.

You may also present any other legally acceptable document or combination of documents listed on the Form I-9 as proof of identity and employment eligibility.

17. I am a national of Haiti; I arrived in the United States after January 12, 2010. Am I eligible for TPS?

No. To be eligible for benefits, nationals of Haiti (or persons having no nationality who last habitually resided in Haiti) must have continuously resided in the United States since January 12, 2010.

18. Can I use TPS as a basis for obtaining permanent resident status?

No. TPS is a temporary benefit that does not lead to lawful permanent resident status by itself or confer any other immigration status.

19. May I apply for another immigration benefit while registered for TPS?

Yes. Registration for TPS does not prevent you from applying for nonimmigrant status, filing for adjustment of status based on an immigrant petition, or applying for any other immigration benefit or protection for which you may be eligible.

20. How does an application for TPS affect my application for asylum or other immigration benefits?

An application for TPS does not affect an application for asylum or any other immigration benefit and vice versa.

Denial of an application for asylum or any other immigration benefit does not affect an alien's ability to register for TPS, although the grounds of denial of that application may also lead to denial of TPS. (For example, an alien who has been convicted of an aggravated felony is not eligible for asylum or TPS.)

If a person who has been granted TPS has a family or employment -based petition approved on his/her behalf and a priority date that is current, he/she can only adjust status in the United States if he/she was inspected and admitted, or

paroled, and (with few exceptions) has maintained lawful status while in the United States. If he/she entered the United States illegally or fell out of a legal status before or after having TPS, he/she may be ineligible to adjust status in the United States. For adjustment purposes, the time that a person is in TPS is considered as a period of lawful non-immigrant status, but merely having TPS does not “cure” all other periods of time before and after TPS when the person may not have had lawful status.

21. Can I obtain a travel document to travel outside the U.S. and return? If I violate the terms and conditions of my status or have been in the U.S. without lawful status and then leave the U.S., will I be able to come back?

If you are granted TPS, you may apply for advance parole by filing Form I-131, Application for Travel Document. If approved, you'll be given an advance parole document. An advance parole document allows you to depart the U.S. and re-enter as long as the advance parole document remains valid.

Advance parole cannot be granted for longer than the period of time your country is designated for TPS.

Advance parole is within the discretion of DHS and is not guaranteed.

Any violation of immigration law can affect your eligibility to reenter the U.S. In some instances failure to obey the law may permanently bar your return. This is true even if you have a visa, advance parole or other document, or at some point otherwise become eligible for status. USCIS will not make a determination as to whether you may be inadmissible in advance, even if you apply for an advance parole.

The best way to ensure that you will not have a problem is to make sure you meet your commitment, and as a guest of the U.S., ensure that you fully understand the terms and conditions of your status, and do not violate them. If you believe you may have violated your status, you may want to seek legal advice about the possible impact on your ability to reenter the U.S. in the future.

You may also want to seek legal advice if you have been illegally present in the U.S. at any time and you anticipate leaving the U.S., even with approved advance parole. You could be found ineligible for certain immigration benefits in the future if you leave the U.S. because your departure may trigger the unlawful presence ground of inadmissibility in section 212(a)(9) of the INA.

22. What might make me ineligible for TPS?

A person who has been convicted of any felony, or two or more misdemeanors committed in the United States is not eligible for TPS.

A person subject to several other criminal and security-related bars to asylum is also ineligible. This would include participating in the persecution of another individual or engaging in or inciting terrorist activity.

23. I am a Haitian national who has applied for TPS; I have recently moved. How do I make sure my address is current?

Most non-United States (U.S.) citizens who are in the U.S. are required by law to notify DHS of any change of address within 10 days after moving to a new address. To notify DHS of your change of address, you must file a Form AR-11, Change of Address. The Form AR-11 can now be completed electronically on our website at www.uscis.gov.

Even if you are one of the few aliens not legally required to provide a change of address, you should keep your address current if you have filed any application or petition with us and it is still pending a decision, so you can get any notices or decisions from us. To notify us of your change of address you can call the USCIS National Customer Service Center at 1-800-375-5283 or you can file the Form AR-11, Change of Address. Form AR-11 can now be completed electronically on our website at www.uscis.gov

24. Where can I receive additional information?

Please contact the USCIS National Customer Service Center at: 1-800-375-5283 or 1-800-767-1833 (TTY).

