



## **Explainer: Temporary Immigration Statuses**

### **Introduction**

Much overlooked in the ongoing debate over immigration is the Trump administration's termination of many different types of temporary protections and statuses. With hundreds of thousands of people losing protections [and work authorization](#) throughout 2025, addressing and clarifying these populations is important to understanding the risks faced by these once-protected individuals who no longer are able to legally work and may now face deportation.

In a time when [mass deportation](#) efforts threaten large numbers of noncitizens with arrest, detention, and removal, it is increasingly common for political actors to refer to those with temporary statuses as undocumented or "illegal."<sup>1</sup> Given this circumstance, it is important to clarify that these hundreds of thousands of people have been legally admitted to the United States, and/or have been lawfully permitted to reside in the United States on a temporary basis across multiple administrations.

Recent actions by the Trump administration to end various temporary protections have impacted these group's lawful presence and exposed these individuals to arrest, detention, and removal. Accordingly, this paper seeks to highlight some of these temporary statuses and discuss how immigrants are impacted when their previously lawful presence has been terminated.

### **What would qualify as "illegal" immigration?**

Whether a noncitizen is referred to as "illegal," "undocumented," "unauthorized," "lacking status," or another term, this category of individuals without legal authorization continues to be a flashpoint in the immigration debate. While there is currently no single definition of "illegal" in this context, the term generally refers to either 1)

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<sup>1</sup> The term "illegal" has become increasingly disfavored in the immigration context over the last two decades and the Forum uses the term only sparingly. *See, e.g.,* npr.org, "In Immigration Debate, 'Undocumented' Vs. 'Illegal' Is More Than Just Semantics," <https://www.npr.org/sections/itsallpolitics/2013/01/30/170677880/in-immigration-debate-undocumented-vs-illegal-is-more-than-just-semantics>, Jan. 30, 2013.

individuals who entered the U.S. without authorization or 2) individuals who entered lawfully,<sup>2</sup> but no longer have lawful status.

Historically, most of the individuals in the second category have overstayed a visa. More recently, hundreds of thousands of individuals have found themselves in this second category after obtaining temporary presence that was later terminated by the current administration.

## **Humanitarian Parole**

Humanitarian parole is a temporary and discretionary immigration designation, not to be confused with “parole” in the criminal law context, and is provided under the Immigration and Nationality Act (INA). Humanitarian parole refers to the temporary and discretionary admission of a non-U.S. national into the United States for a limited period of stay. Under the INA, “the Secretary of Homeland Security can use their discretion to parole any noncitizen applying for admission into the U.S. temporarily for urgent humanitarian reasons or significant public benefit.” Grants of humanitarian parole are assessed by the Department of Homeland Security (DHS) on a case-by-case basis. Humanitarian parole is granted for a limited period of time, typically not longer than one year, but the period can be anywhere from 24 hours up to two years. Parole is often used for witnesses in court cases and for emergency evacuation situations because it is discretionary and provides the flexibility needed in an urgent situation.

The Biden administration used humanitarian parole expansively, often in novel and controversial ways. In response to conflicts overseas, the administration admitted tens of thousands of Afghans, as well as Ukrainians, the latter under the Uniting for Ukraine (U4U) parole program. The Biden administration also extensively used parole to help ease influxes and processing strains along the U.S. southern border, reducing the number of people coming to the southern border in an irregular manner through various programs like the Cuba, Haiti, Nicaragua, and Venezuela (CHNV) parole program, the Keeping Families Together program, and temporarily admitting asylum seekers and others who utilized CBP One, a mobile app developed to enhance border processing and expedite entry.

In 2025, however, under the second Trump administration, many of these programs were either ended, allowed to lapse, or repurposed. For example, the CBP One app has been rebranded and is now used to help facilitate self-deportation. While humanitarian parole remains in place for discretionary use by the Trump administration, the tool has been used sparingly.

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<sup>2</sup> Critics will sometimes refer to individuals with temporary immigration statuses such as parole, TPS, DACA, or refugee status as being “illegal” or “undocumented.” But when the individual has obtained a lawful temporary status, they are not in the U.S. in violation of the law. In circumstances where an individual entered the U.S. in an irregular fashion but later obtained a temporary immigration status – like a TPS holder or asylum seeker – the individual is not unauthorized, at least for the duration of the temporary status.

Although the Biden administration's expansive use of humanitarian parole has at times been controversial, the result of its widespread use and subsequent termination is that hundreds of thousands of people who were temporarily paroled into the U.S. now find themselves without its protections. They are now out of status and at risk of arrest, detention, and deportation.

### **Temporary Protected Status**

Temporary Protected Status (TPS) is a legal and temporary immigration status that was created in the Immigration and Nationality Act of 1990 (INA). Under the law, the DHS Secretary is empowered to grant TPS to populations of foreign-born individuals who are unable to safely return to their home countries, due to situations such as military conflicts or national disasters. TPS is granted for six, twelve, or eighteen-month renewable periods, with DHS regularly reviewing country conditions to determine whether to extend or terminate a particular TPS grant based on current country conditions. If an extension is granted, it is done so at least 60 days before the expiration date. The extension decision is based on a comprehensive evaluation of country conditions, and TPS is restricted to those who arrived before a "required arrival date." This means that TPS holders must be physically present in the United States at the time of the TPS grant. Those who arrive in the U.S. after this date are not covered by the TPS grant.

It is important to note that TPS is available to individuals who meet its qualifications, regardless of their prior immigration status. That is, TPS protections apply to covered foreign nationals currently in the U.S. regardless of whether they were lawfully present, overstayed a visa, or entered unlawfully in the first place. However, TPS protection is only temporary – it is not a pathway to legal status or citizenship in the U.S. Longtime TPS holders are not able to adjust to lawful permanent resident status under the terms of TPS, regardless of how long they have resided in the U.S.

TPS can be extended indefinitely, and TPS protections for some populations have been in place for more than two decades. In 2025 and in the beginning of 2026, the Trump administration has regularly terminated or declined to renew TPS for countries including Afghanistan, Cameroon, Ethiopia, Honduras, Haiti, Nepal, Nicaragua, South Sudan, Syria, Venezuela, Burma, and Somali. Some of these TPS terminations have been challenged in court and litigation remains pending as of early 2026. It is expected that most, if not all, of the remaining active TPS grants will be terminated or allowed to lapse by the Trump administration. Nationals from terminated countries represent hundreds of thousands of individuals, some of whom have been in the United States for decades, and who have now lost, or will shortly lose, their legal status – making them targets for arrest, detention, and deportation.

### **Deferred Action for Childhood Arrivals (DACA)**

Deferred Action for Childhood Arrivals (DACA) is a temporary protection from removal based on the legal concept of deferred action. DACA was first established in 2012 by the

Obama administration. It provides work authorization and protection from deportation to certain Dreamers, young people brought to the United States as children, who entered the U.S. before their 16<sup>th</sup> birthday and have lived in the U.S. since June 15, 2007. DACA must be renewed every two years. DACA does not provide a pathway to permanent lawful status or citizenship.

Since its creation, DACA has faced several [legal challenges](#). Texas and other states litigated against DACA and blocked its expansion, and the first Trump administration [unsuccessfully](#) attempted to rescind the program, although it was successful in preventing new applicants from being considered for DACA protections. In 2022, in an attempt to fortify DACA, the Biden administration issued a [new DACA rule](#) which replaced the 2012 DACA policy. The 2012 DACA policy was subsequently found to be unlawful in litigation. The 2022 DACA rule was also challenged in court and is [still being litigated](#). In 2025, the 5th Circuit issued a decision finding DACA's protections from deportations to be a lawful application of prosecutorial discretion but providing DACA recipients with accompanying work authorization was inconsistent with federal law. DACA remains largely in place, with courts currently only looking to terminate work authorization for residents of Texas. The case is now back in federal district court, which is expected to issue a ruling on the future of the program.

The second Trump administration has yet to take action to terminate DACA, but the pending litigation has only added to the uncertainty DACA recipients face.

## **Refugee Protections**

As reflected in the [Refugee Act of 1980](#), a [refugee](#) is a person outside the country of his or her nationality, who is unable or unwilling to return to that country because of persecution or a well-founded fear of persecution based on his or her race, religion, nationality, membership in a particular social group, or political opinion. An individual who receives refugee status is granted permission to permanently resettle in the United States, including a pathway to LPR status and citizenship.

Refugees are lawfully admitted into the U.S. under a formal process involving extensive screening and vetting. The Department of State preliminarily approves a refugee application and then the U.S. Citizenship and Immigration Services (USCIS), an agency within DHS, makes the final refugee status determination. Refugee status is a temporary status but, unlike many of the other statuses described above, it can lead to permanent status. A refugee is [required](#) to wait for one year but is then obligated to apply for LPR status. Refugee status is an indefinite status, so it is not automatically terminated if a refugee does not apply for LPR status. [In rare cases of fraud or material misrepresentation](#) during the application process, refugee status can be challenged in a formal proceeding that follows due process. These legal limitations in revoking refugee status have significant implications for the entire process USCIS has announced regarding the re-review of refugees who have already been resettled in the US.

In 2025, the Trump administration scaled back refugee protections. In November, USCIS issued an [internal memo](#) calling for the individual review of all the refugees who arrived between January 20, 2021, and February 20, 2025, and halted all processing of green card applications for refugees who entered during the same period. Such actions will have detrimental impacts on the refugee populations in the U.S. and could result in the removal of status for some refugees.

## **Asylum Seekers**

Asylum seekers have garnered significant attention due to the multiple border influxes going back to 2013. Because hundreds of thousands of individuals seeking asylum have been encountered at the border, this status is most commonly part of discussions about border security and unlawful entry.

While most immigration-related offenses are civil offenses, federal law makes unlawful entry and reentry criminal offenses. Violations of 8 U.S.C. §§ [1325](#) and [1326](#) carry criminal penalties. [Section 1325](#), enacted in 1929, makes it a misdemeanor for noncitizens to enter into the U.S. at unauthorized places or time, by evading examination, or entering by making false claims. Section 1326, enacted in 1952, makes unlawful reentry a felony, outlawing the practice of attempting to return and reenter the U.S. after being denied, removed, or deported. Violators of [these laws](#) risk fines and imprisonment, with § [1326](#) violations carrying higher penalties. For more [than a decade](#), these two statutory violations have been among the most [commonly-prosecuted federal crimes](#), carrying criminal penalties in addition to negative immigration consequences.

However, the criminal prohibition against unlawful entry and reentry bump up against the statutory right to seek asylum, created through [treaty](#) and [enshrined in federal law](#) by Congress. An [asylee](#) seeks to secure [protection](#) from persecution from inside the United States or at a U.S. border. An asylee is an individual who [meets](#) the same [definition](#) as a refugee - as detailed above.

Under the INA, [8 U.S.C. § 1158](#), individuals with a well-founded fear of persecution for reason of race, religion, nationality, membership in a particular social group, or political opinion [have a right to seek protection from the U.S. government](#) by applying for asylum within one year of their arrival-with limited exemptions. As the statute notes, they may seek protection “whether or not at a designated port of arrival . . . irrespective of such alien's status.” Under the statute, “[a]ny alien who is physically present in the United States or who arrives in the United States” may apply for asylum and can do so either at ports of entry, between ports of entry, or after having arrived inside the U.S. Successful asylum seekers become asylees, who can pursue LPR status after one year of physical presence in the U.S. and eventual citizenship.

Under federal law, those eligible for asylum [are permitted to remain in the United States](#) to pursue their claims and can receive an employment authorization document (EAD) [after 180 days](#). If denied asylum, work authorization terminates at the time the EAD expired or 60 days after the denial of the asylum application – whichever is later.

In tension with this framework, the Trump administration has placed [significant restrictions](#) on individuals seeking asylum at ports of entry and, [more recently](#), [halted processing](#) of affirmative asylum claims. These actions, alongside [other actions](#) that limit access to humanitarian relief and reduce the validity period of work authorizations, will have a negative impact on current and future asylum seekers.

Relevant to this discussion of lawfulness and status, the [intersection](#) of sections 1325, 1326 and 1158 lay out the complex set of protections for those seeking asylum after an otherwise unlawful entry or reentry. In short, while longstanding federal criminal prohibitions exist for irregular entry or reentry into the United States, federal law also allows those fleeing persecution to seek asylum regardless of their status or method of entry. And federal law provides that asylum seekers can remain in the United States to pursue their claims and seek work authorization. As the Trump administration takes steps to limit access to asylum and the duration of work authorizations, the temporary protections afforded to asylum seekers become increasingly relevant to this conversation.

## **Conclusion**

Although they all too often get mischaracterized in the debate over “illegal immigration,” temporary protections and statuses related to humanitarian parole, TPS, DACA, refugees, and asylum afford lawful presence and protections to those who possess them.

Given this context, it is important to consider the role of these temporary protections and statuses and recognize that hundreds of thousands of people have only recently seen, or may soon see, their lawful presence terminated due to current Trump administration policy changes. In many instances, strong policy considerations exist for affording these protections in the first place and removing them without careful consideration leads to significant harm, especially for those now faced with arrest or deportation. Going forward it is essential that policymakers share a common understanding of these concepts in order to finally advance the permanent legislative reforms needed to fix our broken immigration system.