



PRACTICE UPDATE: SPECIAL PAROLE PROGRAMS

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I. Introduction to Parole and Recent Developments

Parole power has been used in several contexts in modern U.S. history to assist discrete populations where existing policy failed to address certain humanitarian situations. Current legal authority for parole power is derived from INA § 212(d)(5)(A) which permits the Department of Homeland Security (DHS) to grant parole for urgent humanitarian reasons or significant public benefit. The parole power is very broad and is in no way limited to certain nationalities or situations. However, various administrations have used this authority to create specific programs to assist vulnerable populations or those facing unreasonable barriers to relief resulting from natural disasters, social and political upheaval, or significant limitations of the immigration system. Most recently, the Biden Administration has used its parole authority to expand parole for certain nationals of certain countries in response to urgent humanitarian situations and to further family unity efforts for mixed status households in the United States.

While parole programs do not create pathways to permanent status nor do they lessen the wait for immigrant visas, they do facilitate access to protection and family reunification for certain individuals. It is important for advocates to incorporate screening for eligibility for these parole program requirements into their client consultation tools and practice. This practice advisory will discuss the most recent updates regarding the following special parole programs:

- Country Specific Programs:
 - Uniting for Ukraine
 - Operation Allies Welcome and Parole for Afghan Nationals
 - Parole for nationals of Cuba, Haiti, Nicaragua, and Venezuela
- Family Reunification Parole
- Central American Minors (CAM) Program
- Parole in Place

For a more in-depth discussion of other special parole programs, please see ILRC's manual *Parole in Immigration Law*.

II. Country Specific Programs

A. Uniting for Ukraine

Uniting for Ukraine (UFU) was launched on April 25, 2022, as part of the U.S. policy response to the Russian invasion of Ukraine. First announced on April 21, 2022, the program opened a few days later to allow eligible Ukrainians and immediate family members outside of the United States entry for up to two years. In February 2023, DHS announced that over 267,000 Ukrainians had been paroled into the United States.¹ Certain Ukrainian nationals – specifically those who were granted humanitarian parole between February 24, 2022, and April 25, 2022, before the establishment of UFU - were granted an extension of parole for one year. DHS later

¹The White House, *Fact Sheet: One Year of Supporting Ukraine*, (Feb. 21, 2023), <https://www.whitehouse.gov/briefing-room/statements-releases/2023/02/21/fact-sheet-one-year-of-supporting-ukraine/>

announced that those with a one-year grant could apply for re-parole for one year to align with those individuals who were granted parole under UFU.²

USCIS is still accepting applications for UFU parole for those who meet the eligibility requirements. To be eligible for UFU parole, a beneficiary must show they:

- Resided in Ukraine immediately before the Russian invasion (through February 11, 2022) and were displaced as a result of the invasion;
- Are a Ukrainian citizen (or an eligible family member), with a valid passport;
- Have a U.S. supporter (this can be an individual, a group of individuals, or an organization);³
- Clear biographic and biometric security checks; and
- Meet public health requirements (including COVID-19 vaccine).⁴

A U.S. supporter must file Form I-134A, Online Request to be a Supporter and Declaration of Financial Support, with USCIS for each beneficiary. U.S. supporters do not have to be a biological or legal family member of the beneficiary but must have some sort of lawful status including U.S. citizens and nationals, lawful and conditional permanent residents, valid U, T or VAWA nonimmigrant status, parole, deferred action (including DACA), asylees, refugees, TPS and Deferred Enforced Departure (DED) holders.

Once Form I-134A is approved, USCIS sends the beneficiary a notification to set up a myUSCIS account to provide required biometric and health information and to attest to any family relationships for minor children. Once all information is received and approved, USCIS will send advanced authorization for the beneficiary to travel at their own expense. The window to travel is 90 days. Upon arrival, the beneficiary can apply for work authorization and a Social Security number and will be eligible for federal refugee benefits including health, nutrition, financial and other benefits, as well as some state benefits, depending on the state.⁵

As of December 2023, over 170,000⁶ Ukrainians have been paroled into the United States with sponsor applications filed from all 50 states.⁷ As UFU parolees have generally been granted

² Department of Homeland Security, *Uniting for Ukraine*, (Last Updated April 28, 2023), <https://www.dhs.gov/ukraine>

³ U.S. Citizenship and Immigration Services, *Uniting for Ukraine* (Aug. 5, 2022), <https://www.uscis.gov/ukraine>.

⁴ *Id.*

⁵ Office of Refugee Resettlement, Administration for Children and Families, *Ukrainian Humanitarian Parolees Eligible for ORR Benefits and Services* (May 6, 2022), <https://www.acf.hhs.gov/sites/default/files/documents/orr/PL-22-13-Ukrainian-Humanitarian-Parolees-Eligible-for-ORR-Benefits-and-Services.pdf>. ORR provides funding to organizations to provide benefits and services. Here is a state-by-state listing of location organizations: <https://www.acf.hhs.gov/orr/map/find-resources-and-contacts-your-state>.

⁶ Department of State, *Welcoming Ukrainian Nationals to the United States*, <https://www.state.gov/welcoming-ukrainian-nationals-to-the-united-states/#:~:text=Humanitarian%20Parole%20through%20Uniting%20for%20Ukraine&text=As%20of%20December%202023%2C%20over,and%20benefits%20of%20this%20program>.

⁷ Camilo Montoya-Galvez, *A year into war, U.S. sponsors apply to welcome 216,000 Ukrainian refugees under Biden policy*, CBS News (Feb. 24, 2023), <https://www.cbsnews.com/news/a-year-into-war-u-s-sponsors-apply-to-welcome-216000-ukrainian-refugees-under-biden-policy/>

parole for two years, and on February 27, 2024, USCIS announced a process for eligible Ukrainian citizens and their family members to apply for re-parole so they can continue to temporarily remain in the United States.⁸ Eligible individuals may apply for re-parole by submitting Form I-131, Application for Travel Document, along with supporting documentation and the filing fee or fee waiver request.

To be eligible for re-parole under this process, applicants must:

- That you are a Ukrainian citizen or immediate family member who was paroled into the United States on or after Feb. 11, 2022;
- That there are continued urgent humanitarian reasons or significant public benefit for a new period of parole, as well as any additional factors;
- That you warrant a favorable exercise of discretion;
- That you are physically present in the United States;
- That you have complied with the conditions of the initial parole; and
- That you clear biographic and biometric background checks.

B. Operation Allies Welcome and Parole for Afghan Nationals

Following the final withdrawal of U.S. troops from Afghanistan in August of 2021, the Biden Administration established Operation Allies Welcome (OAW), with the goal of assisting vulnerable Afghan nationals, some of whom were already in the United States and others who were still abroad and in Afghanistan.⁹ As part of OAW, DHS granted humanitarian parole to thousands of Afghans who entered the United States to seek asylum or continue with Special Immigrant Visas. In September 2022, DHS announced that Operation Allies Welcome would be renamed Operation Enduring Welcome with a focus on aiding Afghans who are eligible for Special Immigrant Visas and other refugee resettlement efforts and pivoting away from humanitarian parole.¹⁰ For those Afghans who were unable to apply for or be granted OAW parole, DHS stated that humanitarian parole would remain an option for those wishing to enter the United States. However, only a small number of those humanitarian parole applications have been granted.¹¹

⁸ USCIS Re-Parole Process for Certain Ukrainian Citizens and Their Immediate Family Members <https://www.uscis.gov/humanitarian/uniting-for-ukraine/re-parole-process-for-certain-ukrainian-citizens-and-their-immediate-family-members>.

⁹ Department of Homeland Security, *Operation Allies Welcome*, (Sept. 29, 2022), <https://www.dhs.gov/allieswelcome>.

¹⁰ Priscilla Alvarez, *Biden administration pivoting to long-term strategy to assist Afghans*, CNN, (Sept. 1, 2022), <https://www.cnn.com/2022/09/01/politics/afghan-resettlement/index.html#:~:text=That%20operation%20is%20now%20being,in%20coming%20to%20the%20US>.

¹¹ Najib Aminy and Dhruv Mehrotra, *The US Has Approved Only 123 Afghan Humanitarian Parole Applications in the Last Year*, Reveal, (Aug. 19, 2022), <https://revealnews.org/article/the-us-has-approved-only-123-afghan-humanitarian-parole-applications-in-the-last-year/>.

On May 5, 2023, in recognition of the ongoing situation in Afghanistan, DHS announced that Afghan OAW parolees would be eligible for re-parole for a period of two years and that the agency would be evaluating requests on a case-by-case basis.¹² Those parolees whose I-94 Arrival/Departure Record has a code of “OAR” or “PAR” are eligible to apply for re-parole using Form I-131 Application for Travel Document either on paper or online. Applicants can indicate if they want an Employment Authorization Document (EAD) on the form whether filed online or on paper. If approved, the notice will show that employment authorization has been extended to the expiration date of the new grant of parole and no application to renew the EAD is necessary. However, those wishing to apply for a new EAD are permitted to do so. In announcing the re-parole process, DHS also announced that re-parole requests for OAW parolees would be exempt from the filing fee for Form I-131 and Form I-765 (if requesting a new EAD). There is also no requirement that parolees submit another I-134 to be granted re-parole. In August of 2023, ORR confirmed that Afghans with pending re-parole, asylum or adjustment of status applications would continue to be eligible for benefits while awaiting a decision in their case, even if the initial period of parole expires during the pendency of the new application.¹³

Practice Tip: Applicants can file for re-parole either online or on paper using Form I-131. For those applying on paper, be sure to write “RE-PAROLE” at the top of Form I-131. Both online and paper applications have a space to indicate whether or not the applicant wants a new EAD (Part 8). For more detailed information on applying for re-parole, visit the USCIS web site, <https://www.uscis.gov/humanitarian/information-for-afghan-nationals/re-parole-process-for-certain-afghans>.

C. Parole for Nationals of Cuba, Haiti, Nicaragua and Venezuela

On January 5, 2023, as part of the Biden Administration’s new border enforcement policies, DHS announced that a new parole program would be established for nationals of Cuba, Haiti, and Nicaragua. The program was an expansion of a parole program for Venezuelan nationals already in place since October 2022.¹⁴ Under this new initiative, referred to here as CHNV parole, up to 30,000 individuals from the four designated countries can be paroled into the United States per month for a period of two years.¹⁵ As of April 2024, 245,780 petitions had been filed for CHNV beneficiaries, 210,730 travel authorizations had been issued and 191,030

¹²Department of Homeland Security, *DHS Announces Upcoming Re-Parole Process for Afghan Nationals*, (May 5, 2023), <https://www.dhs.gov/news/2023/05/05/dhs-announces-upcoming-re-parole-process-afghan-nationals>

¹³Administration for Children and Families, Office of Refugee Resettlement, *Continuation of ORR Services for Certain Afghans Who Have Filed for Re-parole, Asylum or Adjustment of Status*, (Aug. 1, 2023), <https://www.acf.hhs.gov/sites/default/files/documents/orr/PL%2023-06-continuation-of-orr-services-for-afghans.pdf>

¹⁴ Department of Homeland Security, *DHS Announces New Migration Enforcement Process for Venezuelans*, (Oct. 12, 2022), <https://www.dhs.gov/news/2022/10/12/dhs-announces-new-migration-enforcement-process-venezuelans>.

¹⁵ The White House, *Fact Sheet: Biden-Harris Administration Announces New Border Enforcement Actions*, (Jan. 5, 2023), <https://www.whitehouse.gov/briefing-room/statements-releases/2023/01/05/fact-sheet-biden-harris-administration-announces-new-border-enforcement-actions/>

individuals had been paroled into the United States under the CHNV parole process.¹⁶ In early August 2024, DHS stated that CHNV parole was being temporarily suspended briefly following accusations of fraud in the financial sponsor process.¹⁷

CHNV parole is similar but not identical to OAW and UFU parole. CHNV parolees are not entitled to ORR benefits but are permitted to apply for an EAD in the (c)(11) category upon entering the United States.

Applicants for CHNV parole must have a U.S. supporter with lawful status, including U.S. citizens and nationals, lawful permanent residents, nonimmigrants in valid status, asylees, refugees, parolee, TPS holders, DED holders or those with any type of deferred action (including DACA). The supporter must agree to provide financial support to the beneficiary for the duration of the parole period. This support includes providing housing and basic necessities, helping the beneficiary apply for work authorization, ensuring that medical needs are met and helping the beneficiary access education services as needed.

A beneficiary must be outside of the United States (though they are not required to be in their home country), be a national of Cuba, Haiti, Nicaragua, or Venezuela or be an immediate relative (including common law partners) of a national and have a valid passport or travel document for international travel. Certified extensions of passports retain validity for purposes of CHNV parole and certain expired Venezuelan passports are considered valid for CHNV purposes.¹⁸

Because these programs are part of a larger strategy aimed at reducing the numbers of migrants who seek asylum or entry at the southern border, additional restrictions are in place for CHNV parole applicants compared to programs for Ukrainians or Afghans. Beneficiaries will not be granted CHNV parole if they:

- Have a removal order from the past five years;
- Entered the United States without inspection or crossed the Mexican or Panamanian border after the announcement date of the relevant program:
 - October 19, 2022 for Venezuelans
 - January 9, 2023 for Cubans, Haitians and Nicaraguans
- Were interdicted at sea after April 27, 2023.

Example: A Nicaraguan citizen who has decided to seek asylum in the United States for the first time and is currently traveling through Honduras can be a beneficiary for CHNV parole because she has not been removed from the United States or crossed into Mexico. However, if that same Nicaraguan citizen crosses into Mexico after January 9, 2023, she will be ineligible for CHNV parole.

¹⁶ Office of Homeland Security Statistics. *Immigration Enforcement and Legal Processes Monthly Tables – April 2024*, (Aug. 9, 2024), <https://ohss.dhs.gov/topics/immigration/enforcement/legal-processes-monthly-tables>.

¹⁷ Elliot Spagat, *US Homeland Security halts immigration permits from 4 countries amid concern about sponsorship fraud*, Associated Press, August 2, 2024.

¹⁸U.S. Customs and Border Protection, *Venezuela: Extension of Passport Validity*, (June 29, 2023), https://help.cbp.gov/s/article/Article-1411?language=en_US

Unaccompanied children are also not eligible for CHNV parole, but instead will be processed and transferred to ORR custody if encountered by CBP. In engagements with stakeholders, DHS officials have confirmed that a child traveling without a parent or legal guardian, even as part of a parole process, will be processed as an unaccompanied minor.¹⁹

The CHNV process is completed entirely online and there is no paper filing option.²⁰ To begin the process, the U.S. supporter completes Form I-134A, Online Request to be a Supporter and Declaration of Financial Support, for each beneficiary, including minor children traveling with an adult beneficiary. This requires a myUSCIS online account. USCIS will assess the sponsor for financial suitability and other background checks at the agency's discretion. Once the supporter is confirmed, the beneficiary will receive communication from USCIS to create a myUSCIS account to enter and confirm the information provided by the supporter. Beneficiaries will also have to attest to meeting public health requirements including vaccines, however there is no medical exam required to be granted CHNV parole. Beneficiaries will also have to download the CBP One mobile app to enter and confirm their biographic details again and must upload a passport-style photo to the app.

Once all information is received through the CBP One app, CBP will advise whether travel authorization will be granted. Once granted, the authorization is valid for 90 days. Travel to the United States must be completed by air and beneficiaries or their supporters must pay for their own air travel. CBP will make the final parole determination at the port of entry and, if granted, the parole period will generally be for two years and parolees will be eligible to apply for an EAD. Unlike UFU and OAW, CHNV parolees are not entitled to health, nutrition or other benefits upon entry to the United States.

III. Family Reunification Parole

Recently, the Biden Administration has expanded the availability of family reunification parole (FRP) programs, which enables certain beneficiaries (and their immediate family members) of approved family-based petitions to travel to the United States to reunify with their petitioners. In the past, the program was only open to Cuban nationals (initiated in 2007) and Haitian nationals (initiated in 2014), but in July 2023, eligibility was expanded to nationals of Colombia, Guatemala, El Salvador, and Honduras.²¹ In November 2023, FRP was further expanded to include nationals from Ecuador.²²

The program is limited to those with an approved I-130 visa petition. There is no mechanism to apply for consideration for FRP, but rather the U.S. petitioner must wait for an invitation from the Department of State National Visa Center (NVC) to participate. The NVC will reach out

¹⁹ U.S. Citizenship and Immigration Service, *Process for Cubans, Haitians, Nicaraguans and Venezuelans*, (Last Reviewed/Updated July 12, 2023), <https://www.uscis.gov/CHNV>

²⁰ *Id.*

²¹ U.S. Citizenship and Immigration Services, *DHS Announces Family Reunification Parole Processes for Colombia, El Salvador, Guatemala, and Honduras*, (July 7, 2023), <https://www.uscis.gov/newsroom/news-releases/dhs-announces-family-reunification-parole-processes-for-colombia-el-salvador-guatemala-and-honduras>

²² *Implementation of a Family Reunification Parole Process for Ecuadorans*, 88 Fed. Reg. 78762 (Nov. 16, 2023).

electronically or via mail to invite petitioners to begin the process. Petitioners can ensure that all contact information is up to date by completing the NVC Public Inquiry Form.²³ Following the expansion of FRP, USCIS developed a search tool to determine if an invitation has been issued using the receipt number of the approved I-130 for the principal beneficiary. The search tool is available at <https://www.uscis.gov/frpinvitations>. If the search tool confirms that an invitation has been sent, but has not yet been received by the petitioner, USCIS states that petitioners should use the public inquiry form (available at <https://travel.state.gov/content/travel/en/us-visas/visa-information-resources/ask-nvc.html>) to contact the NVC about the invitation.

To be eligible to receive an invitation, a petitioner must:

- Be a U.S. citizen or lawful permanent resident;
- Have an approved I-130 petition for the beneficiary; and
- Have received an invitation to participate from NVC

In order to receive travel authorization and ultimately parole, the beneficiary must:

- Be residing outside of the United States (there is no requirement that the beneficiary be residing in home country);
- Be the principal or derivative beneficiary of an approved I-130 petition;
- Be a national of Colombia, Cuba, El Salvador, Guatemala, Haiti or Honduras;
- Not have an immigrant visa at the time of invitation; and
- Have a valid passport or other unexpired documentation to facilitate travel to the United States.

In announcing the FRP expansion, DHS also announced updated procedures to the existing programs for Cuban²⁴ and Haitian²⁵ nationals. Due to security concerns, diplomatic challenges and the COVID-19 pandemic, the Cuban FRP program was halted in 2017 but operations resumed in 2022.²⁶ USCIS did not issue new invitations at the time but began processing applications for those who had been invited to participate prior to the suspension of the program.²⁷ The Haitian FRP program was terminated in 2019 by the Trump Administration, but USCIS announced that it would reverse course in 2021.²⁸ The expansion and update announcements laid out a revised process for the FRP program and noted the shift to a mostly online process, negating the need for an in-person interview at the embassies.²⁹ This shift brought the Cuban and Haitian programs in line with the FRP programs for the other countries.

²³ U.S. Department of State – Bureau of Consular Affairs, *Public Inquiry Form*, <https://travel.state.gov/content/travel/en/us-visas/visa-information-resources/ask-nvc.html>

²⁴ Implementation of Changes to Cuban Family Reunification Parole Process, 88 CFR § 54639 (2023),

²⁵ Implementation of Changes to the Haitian Family Reunification Parole Process, 88 CFR § 54635 (2023).

²⁶ U.S. Citizenship and Immigration Services, *The Cuban Family Reunification Parole Program*, (Sept. 1, 2022), www.uscis.gov/humanitarian/humanitarian-parole/cuban-family-reunification-parole-program.

²⁷ *Id.*

²⁸ AILA, *USCIS Guidance n Haitian Family Reunification Parole Program*, (Sept. 29, 2021), <https://www.aila.org/infonet/uscis-guidance-hfrp>.

²⁹ *Id.*; Implementation of Changes to Cuban Family Reunification Parole Process, 88 CFR § 54639 (2023).

Once the invitation is sent, the petitioner completes Form I-134A, Online Request to be a Supporter and Declaration of Financial Support. This form is only available online and requires a myUSCIS account to complete. Petitioners must complete an I-134A for each beneficiary, including derivatives.³⁰ USCIS then completes background checks on the petitioner and beneficiary and evaluates the family relations between the principal beneficiary and any derivatives.

The next step requires that the beneficiary also create a myUSCIS account, which is used to confirm biological and biographical information, including attesting to receiving required vaccinations and a medical exam (which must be completed in person)³¹ which distinguishes FRP from CHNV parole. The medical exam must be completed before the attestations in the online account. Once the medical exam and attestations are completed and verified by USCIS, beneficiaries will be instructed to submit a request to travel through CBP One mobile application. CBP One collects biographical information, confirms attestations already submitted to USCIS and requires the beneficiary to digitally upload a photo, similar to a passport photo.

In its discretion, CBP will provide travel authorization for the beneficiary and any derivatives. Beneficiaries must have valid travel documentation and must pay for their own air travel to the United States and enter through an interior port of entry (i.e., an airport). Beneficiaries under the age of 18 years old must be accompanied by a parent or legal guardian, otherwise, CBP may treat the beneficiary as an unaccompanied child and transfer the child to ORR custody. As with all forms of parole, CBP has the discretion to grant or deny parole at the airport. The grants of parole are generally for three years and parolees are eligible to apply for an EAD in the (c)(11) category.

Colombians, Salvadorans, Guatemalans and Hondurans will be not be eligible for FRP if they have attempted to enter the United States without inspection after July 10, 2023 (the announcement date for the program), unless they have been granted voluntary departure or withdrawn their application for admission.³² Applicants from these countries will also be considered ineligible if they are “interdicted at sea” after July 10, 2023, or if they have been removed from the United States within the previous five years or are inadmissible due to a prior removal order.³³ The same restrictions apply to Ecuadoran nationals, but with a cutoff date of November 16, 2023. These restrictions do not apply to Cubans and Haitians, but the long-standing practice of considering a beneficiary’s immigration history will still be used to assess eligibility for Cuban or Haitian FRP.³⁴ Practitioners and applicants should be aware that as parole decisions are always made in the discretion of the agency and that many factors – including all inadmissibility factors – can be considered for a grant of parole. Further, a grant of parole does not indicate that these same factors will not cause issues in a future application for adjustment of status or any other application for an immigration benefit.

³⁰ U.S. Citizenship and Immigration Services, Family Reunification Parole Processes, (Last Reviewed/Updated Jan. 2, 2024), <https://www.uscis.gov/FRP>

³¹ The USCIS website contains links to approved medical practitioners in home country where a medical exam can be completed: <https://www.uscis.gov/FRP> (links are available on the “Medical Examinations” tab).

³² *Id.*

³³ *Id.*

³⁴ *Id.*

Example: A Colombian citizen who was apprehended at the southern border after July 10, 2023 and removed from the United States would be *ineligible* for FRP. The same Colombian citizen who was removed from the United States in March 2023, *would be eligible* for FRP. Similarly, a Cuban citizen who was removed from the United States at any time would retain eligibility for FRP. However, CBP could still, in the agency’s discretion, deny parole to the Cuban citizen and the Colombian citizen who was removed in March 2023.

Currently, there is no data available on processing times, approval rates or other procedural issues, though USCIS has stated that processing information will be available on the agency’s FRP web site³⁵ at a later date. Separate web sites for Cuban Family Reunification Parole³⁶ and Haitian Family Reunification Parole³⁷ remain on the USCIS web site, but similarly, do not include any data on processing times or approval rates.

IV. CAM Parole

The Central America Minors (CAM) Refugee and Parole Program was established in 2014 to provide a means for minors from El Salvador, Guatemala, and Honduras to safely reunite with a parent or legal guardian in the United States. The program is unique in that it is a hybrid refugee program and parole program. Beneficiaries are first screened for refugee status.³⁸ If not eligible, they are considered for parole in the alternative. There is no publicly available application, and the U.S.-based parent or legal guardian must file the initial application through a designated refugee resettlement agency.³⁹ Most CAM applicants are granted parole rather than refugee status and the refugee screening process can involve lengthy processing times, resulting in long delays as it is a prerequisite to the parole determination. The program is not designed for those parents and guardians who have alternative ways to petition for their minor children to enter the United States, such as U.S. citizens, refugees and asylees. It is also not intended for undocumented children already living in the United States. For a more detailed discussion of recent changes to the CAM program and the mechanics of the process, please see ILRC, *The Central American Minors (CAM) Program*, (Dec. 2022), <https://www.ilrc.org/sites/default/files/2023-02/The%20Central%20American%20Minors%20%28CAM%29%20Program.pdf>.

³⁵ U.S. Citizenship and Immigration Services, *Frequently Asked Questions About the Family Reunification Parole Process*, (Last Reviewed/Updated Nov. 15, 2023),

³⁶ U.S. Citizenship and Immigration Services, *The Cuban Family Reunification Parole Program*, (Last Reviewed/Updated Aug. 11, 2023), <https://www.uscis.gov/humanitarian/humanitarian-parole/the-cuban-family-reunification-parole-program>

³⁷ U.S. Citizenship and Immigration Services, *The Haitian Family Reunification Parole (HFRP) Program*, (Last Reviewed/Updated Aug. 11, 2023), <https://www.uscis.gov/humanitarian/humanitarian-parole/the-haitian-family-reunification-parole-hfrp-program>

³⁸ See INA § 101(a)(42) for the legal definition of “refugee.”

³⁹ A list of recognized resettlement agencies throughout the US is available at <https://www.wrapsnet.org/rp-agency-contacts/>.

The CAM program initially suffered from extensive delays and in 2017 was terminated by the Trump Administration.⁴⁰ However, in 2021, the Biden Administration reopened the program with a focus on applications that were pending when the program was terminated.⁴¹ As part of the reopening, new eligibility criteria were announced expanding eligible petitioners to include legal guardians and expanding the eligibility to petitioners with pending applications for U visas and asylum. In April 2023, further enhancements were announced including increasing information collected where the parent is a step- or adoptive-parent to confirm the relationship, ensuring that those caught in limbo during the program's termination in 2017 have access to a full and fair opportunity to be considered for the program, and replacing the filing of Form I-134 Affidavit of Support with a statement of financial support by the parent or legal guardian.⁴² The changes also included a further expansion of the eligibility criteria further for parents with pending U visa applications by moving up the application-pending date to April 11, 2023 and adding parents with pending T visa applications as of April 11, 2023.⁴³

To be eligible for the program, a parent or legal guardian lawfully present in the United States must file the application for the program on the child's behalf through a designated refugee resettlement agency. The parent or legal guardian must be at least 18 years of age and lawfully present in the United States pursuant to: lawful permanent residence, temporary protected status, deferred action (such as DACA or the U visa waitlist) (one year or more), parolee (one year or more), withholding of removal, deferred enforced departure, or with a pending application for asylum, a T visa or a U visa filed on or before April 11, 2023. Petitioners must remain in one of the qualifying statuses throughout the entire CAM process, up until and including the time the minor is issued travel documents enters the United States. Additionally, certain eligible family members, including the siblings and biological parent of the qualifying beneficiary can be eligible for the CAM program under certain circumstances.⁴⁴

⁴⁰ David Nakamura, *Trump administration ends Obama-era protection program for Central American minors*, The Washington Post (Aug. 16, 2017).

⁴¹ USCIS, *Central American Minors (CAM) Refugee and Parole Program*, (June 22, 2022), <https://www.uscis.gov/CAM>.

⁴² Bureau of Population, Refugees, and Migration; Central American Minors Program, 88 CFR § 21694 (2023).

⁴³ *Id.*

⁴⁴ Further guidance on who is an eligible family member can be found on the USCIS CAM web site, <https://www.uscis.gov/CAM>. See also, ILRC, *The Central American Minors (CAM) Program*, (Dec. 2022), <https://www.ilrc.org/sites/default/files/2023-02/The%20Central%20American%20Minors%20%28CAM%29%20Program.pdf>.

Examples:

- A Salvadoran mother who has a U visa pending as of 2021 would be an eligible petitioner under the CAM Program for her two minor children who currently reside in El Salvador with her sister. As primary caregiver of the two children and biological sister of the petitioner, the children's aunt may also qualify as an eligible family member.
- A Guatemalan father whose asylum application has been pending since 2020 can petition for his 15-year-old son who resides in Guatemala with his biological mother. The mother can be an eligible family member with the son, even though she and the father are not married. However, if the father's asylum petition is denied before the completion of the CAM process and he does not have another qualifying status (such as a pending U Visa), his son and the son's mother will no longer be eligible for the CAM program. Also, if the father is granted asylum while the CAM application was pending, the son and the mother would also lose CAM eligibility as the son would now be eligible to be petitioned through the regular asylee relative petition process.

Qualifying children must be:

- The child (biological, step, or adopted) of the qualifying parent;
- Under twenty-one years old;
- Unmarried;
- A national of El Salvador, Guatemala, or Honduras; and
- Residing in one of those countries

If found eligible for parole, the minor must complete a medical exam at the family's own expense. Once completed, U.S. officials will contact the parent in the United States to make and pay for travel arrangements. Parolees are required to pay for their own travel, but travel must be booked through the International Organization for Migration (IOM).⁴⁵ Once travel is booked, a Form I-512L parole document will be issued with a specific timeframe to travel, typically four months.

Parole under the CAM program was previously granted for a two-year period, but the most recent update increased it to three years.⁴⁶ That means a minor who enters on the program can live and work lawfully in the United States during that period. Parolees are eligible to apply, once in the United States, for employment authorization by filing Form I-765 and paying the requisite fee or submitting a fee waiver request on Form I-912. The category of the employment authorization that should be listed on Form I-765 is (c)(11).⁴⁷ Applying for work

⁴⁵ If additional time is needed to secure funds to pay for the travel arrangements, officials at the consulate should be notified so the case can be administratively closed. However, applicants who require this extra time should be careful to not let the medical examination expire, which is only valid for a six-month period. Once the funds are secured and travel arrangements confirmed, the case can be reopened and proceed normally.

⁴⁶ Bureau of Population, Refugees, and Migration; Central American Minors Program, 88 CFR § 21694 (2023).

⁴⁷ 8 CFR § 274a.12(c)(11).

authorization is recommended even if the minor does not plan to work or is not of legal age to engage in employment in order to have a form of government-issued photo identification.

CAM parolees are eligible to apply for re-parole at least ninety days before the expiration of the current parole period. Unlike the initial CAM application, the re-parole application does not require new proof of the qualifying family relationship and does not need to be completed through a refugee agency. However, USCIS will review the application for re-parole under the same criteria used for initial CAM applications. Re-parole applicants must file Form I-131, Application for Travel Document and include a completed Form I-134, Declaration of Financial Support, along with an explanation of why the person needs to remain in the United States. A fee for the I-131 or a fee waiver request must be included with the application.

Practice Tip: Applicants for CAM re-parole must write “CAM re-parole” on top of the paper application. Re-parole applicants whose parole has expired due to the previous CAM termination and who have not applied for re-parole yet should also include a statement explaining why they did not apply for parole sooner.

V. Parole In Place

Another facet of the broad parole authority that the president has is to provide Parole In Place (PIP) for certain individuals who entered the United States without inspection. Parole-in-place grants an individual access to important benefits, including protection from removal and eligibility to apply for a work permit in the (c)(11) category. PIP can also allow eligible individuals to adjust their status under INA § 245(a), which requires that an applicant for adjustment be “inspected and admitted or paroled.” In other words, a grant of PIP satisfies the requirement that an eligible adjustment applicant be lawfully admitted or paroled into the United States and opens the door for that applicant to adjust their status in the United States rather than consular process and risk family separation.

A. General Eligibility

PIP is limited in its applicability. As with other forms of parole, it is granted on a case-by-case basis and is available totally at the discretion of DHS. Officially, PIP exists in two contexts: PIP for family members of active duty or retired military servicemembers and PIP for certain undocumented spouses and stepchildren of U.S. Citizens (known as Keeping Families Together or KFT). These two variations have their own requirements but generally, to be eligible for PIP, an individual must:

1. Be physically present in the United States

PIP is not available to individuals outside of the United States. Those with qualifying relationships will have to complete the family-based visa process at a U.S. consulate or embassy in order to enter the United States.

2. Not have been “admitted” into the United States

To be considered admitted a person must have made a “lawful entry ... after inspection” by a DHS officer.⁴⁸ Therefore, a noncitizen who entered the United States without inspection, by avoiding a DHS checkpoint for example, has not been admitted. This type of entry is called an “entry without inspection” or “EWI.” In contrast, a noncitizen who has entered with a visa, was admitted to the United States with that visa and then overstayed, is not eligible for PIP.

3. Not have any disqualifying criminal history

Generally, PIP applicants do not have to show that they are admissible in order to receive a grant of PIP. However, DHS does use its discretion in granting PIP and employs a case-by-case analysis of each PIP request weights positive and negative factors. USCIS guidance notes that “[a]bsent a criminal conviction or other serious adverse factors, parole in place would generally be an appropriate exercise of discretion ...”⁴⁹ which means that criminal conduct, prior immigration violations and other adverse factors could weigh negatively against positive factors that are presented in the PIP application.

For military PIP and KFT PIP, USCIS has reiterated that adjudicators do not conduct a full inadmissibility screening when reviewing applications for PIP. However, USCIS does collect biometrics and conduct background checks for all PIP applications and in some instances, PIP applications have been denied where an applicant’s criminal history renders them inadmissible. Further still, USCIS maintains⁵⁰ its ability to issue Notices to Appear (NTA) to applicants whose benefit applications have been denied but prioritizes those cases where individuals fall within one of DHS’s enforcement priorities.⁵¹

Practice Tip: For applicants with any history of contact with the former INS, USCIS, ICE, or CBP, the practitioner should conduct a thorough background check to confirm all past interactions with immigration authorities. A practitioner should conduct a client’s FBI fingerprint check and/or a Freedom of Information Act (FOIA) request with each appropriate DHS agency.

⁴⁸ See INA § 101(a)(13).

⁴⁹ USCIS-AFM § 21.1(c)(1); 7 USCIS-PM B.2(3). Note while USCIS is working to phase out their Adjudicator’s Field Manual and migrate all guidance to its Policy Manual, they have not yet updated the Policy Manual section on parole-in-place so most USCIS guidance on PIP is still in the AFM or in the relevant policy memoranda mentioned in this chapter and included at Appendices D & E. The citation to the Policy Manual included here is from the section on adjustment of status, which has a brief discussion of parole, including parole-in-place, as one way to meet the “inspected and admitted or paroled” requirement to adjust under INA § 245(a).

⁵⁰ USCIS, *Notice to Appear Policy Memorandum*, (Last Updates/Reviewed June 14, 2021), <https://www.uscis.gov/laws-and-policy/other-resources/notice-to-appear-policy-memorandum>

⁵¹ DHS, *Guidelines for the Enforcement of Civil Immigration Law*, Sept. 30, 2021.

B. Specific Requirements for Military PIP

Although PIP for military families was not formalized until November 15, 2013, the U.S. government has used PIP to allow certain relatives of U.S. military members to remain in the United States, and enable them to adjust status, since at least 2007. In a 2013 memorandum, DHS affirmed the policy considerations in granting PIP to family members of military servicemembers including the stress and anxiety experienced by servicemembers due to their family members' immigration status, the potential adverse effect on military preparedness that a family member's immigration status might have, and the commitment to support and care for veterans.⁵²

An individual may qualify for military PIP if they:

1. Are physically present in the United States;
2. Were not "admitted" into the United States at last entry;
3. Are the spouse, parent, or child (or son or daughter);
4. Of a current or former member of the U.S. Armed Forces; and
5. Do not have a criminal conviction or other serious adverse factors.

Current or former members of the U.S. Armed Forces includes active duty servicemembers, those in Selected Reserve or Ready Reserve and individuals (living or deceased) who served in the military or Selected or Ready reserve who were not dishonorably discharged.

Not all family members of military servicemember or veterans qualify for PIP. DHS has traditionally followed the same guidance for PIP as other familial designations under the INA.⁵³ For example, spouses are typically defined as those who are legally married and have a "bona fide" marital relationship as defined by the Act.⁵⁴

However, the traditional familial designations have some noted exceptions for military PIP. For children of a military servicemember, children over age 21 can still be eligible for military PIP. Traditionally under the Act, a "child," usually is an unmarried and under age 21.⁵⁵ A subsequent military PIP memo from 2016⁵⁶ clarifies that "sons and daughters," i.e. over twenty-one and/or married, also qualify for PIP, stating that "[t]he same morale, deservedness, and preparedness rationales articulated in the 2013 PM [PIP memo for military families] with respect to military personnel and their children continue to apply when such children turn 21 or marry."

⁵² USCIS, *Memorandum: Parole of Spouses, Children and Parents of Active Duty Members of the U.S. Armed Forces, the Selected Reserve of the Ready Reserve, and Former Members of the U.S. Armed Forces or Selected Reserve of the Ready Reserve and the Effect of Parole on Inadmissibility under Immigration and Nationality Act § 212(a)(6)(A)(i)* (Nov. 15, 2013), https://www.uscis.gov/sites/default/files/document/memos/2013-1115_Parole_in_Place_Memo_.pdf.

⁵³ See INA § 101.

⁵⁴ "Bona fide" means that the marriage was entered into in good faith, without fraud or deceit. In the immigration context, in order to prove a "bona fide" marriage the couple must show that the marriage was not a fraud at its inception (i.e., at the time the couple got married). See *Matter of McKee*, 17 I&N Dec. 332 (BIA 1980).

⁵⁵ INA § 101(b).

⁵⁶ USCIS, *Memorandum: Discretionary Options for Designated Spouses, Parents, and Sons and Daughters of Certain Military Personnel, Veterans, and Enlistees* (Nov. 23, 2016), https://www.uscis.gov/sites/default/files/document/memos/PIP-DA_Military_Final_112316.pdf

There are also exceptions for parents. Under immigration law, a parent is defined in relation to the immigration definition of a “child.” In order to file a family petition on behalf of a parent, the child must be a U.S. citizen and be at least twenty-one years of age. However, this is not the case for PIP for military families. First, PIP policy does not require the U.S. military or veteran child to be a U.S. citizen.⁵⁷ Second, unlike in the family petition context, DHS does not require the child who is in the military to be a certain age in order for their parent to apply for PIP.⁵⁸ However, parents are required to submit proof that their U.S. servicemember child supports the application for PIP.⁵⁹

Applications for military PIP are filed on Form I-131, Application for Travel Document, and there is no fee for the application. USCIS recommends that applicants write “Military PIP” on their application in Part 2 instead of checking one of the boxes.⁶⁰ The application should include evidence of the family relationship (i.e., marriage certificate/termination documentation for previous marriages, birth certificates), evidence of military service (e.g., a copy of military identification cards or DD Form 214), as well as any other evidence of positive discretionary factors and two passport photos.⁶¹

Military PIP is granted in one-year increments with re-parole possible.⁶²

C. Keeping Families Together (KFT) PIP

On June 18, 2024, President Biden announced an expansion of parole in place to include certain undocumented spouses and stepchildren of U.S. citizens.⁶³ The administration announced that applications would be accepted starting August 19, 2024 and subsequently released a Federal Register Notice (FRN) outlining the parameters of the program.⁶⁴

KFT PIP is similar to Military PIP, but applicants do not need to show family relationship to a military service member. However, there are restrictions for KFT PIP that are not required for military PIP. Spouse applicants for PIP must show that they have been present in the United States since June 17, 2014, and also that they were legally married to a U.S. citizen on June 17, 2024. Further, KFT PIP is not available for parents of U.S. citizens, nor is it available to relatives of lawful permanent residents. To be eligible for KFT PIP, spouses must:

⁵⁷ Generally speaking, a person must be a U.S. citizen or lawful permanent resident to enlist in the U.S. military, although there have been reported cases of undocumented immigrants enlisting. Additionally, some non-U.S. citizens with special skills, including some DACA recipients, may enlist in the military through the MAVNI (Military Accessions Vital to the National Interest).

⁵⁸ INA § 201(b)(2)(A)(i).

⁵⁹ USCIS, *Discretionary Options for Military Members, Enlistees and Their Families*, <https://www.uscis.gov/military/discretionary-options-for-military-members-enlistees-and-their-families> (Last updated/reviewed May 2, 2024).

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² USCIS-AFM § 21.1(c)(1)

⁶³ The White House, *FACT SHEET: President Biden Announces New Actions to Keep Families Together*, June 18, 2024, <https://www.whitehouse.gov/briefing-room/statements-releases/2024/06/18/fact-sheet-president-biden-announces-new-actions-to-keep-families-together/>.

⁶⁴ Implementation of Keeping Families Together, 89 Fed. Reg. 67459, Aug. 20, 2024.

- Be present in the United States without admission or parole;
- Have been continuously physically present in the United States since at least June 17, 2014 through the date of filing the parole in place request;
- Have a legally valid marriage to a U.S. citizen on or before June 17, 2024;
- Have no disqualifying criminal history; and
- Submit biometrics, undergo required background checks and national security, public safety, and border security vetting, and be found not to pose a threat to national security or public safety.

Stepchildren of U.S. citizens are also eligible to apply for KFT PIP, regardless of whether their non-citizen parent applies, and must show that they have been physically present in the U.S. since June 17, 2024. At this time, it is not known if biological children of U.S. citizens who are undocumented and meet the other requirements for the program are eligible for PIP. To be eligible for PIP, stepchildren must:

- Be present in the United States without admission or parole;
- Have a parent who entered into a legally valid marriage with a U.S. citizen on or before June 17, 2024 and before the child's 18th birthday;
- Have been continuously physically present in the United States since at least June 17, 2024 through the date of filing;
- Have no disqualifying criminal history; and
- Submit biometrics, undergo required background checks and national security and public safety vetting, and be found not to pose a threat to national security or public safety.

There are also more restrictive eligibility grounds for KFT PIP of USCs than Military PIP. The FRN details the crimes-related grounds that will disqualify someone from being eligible for PIP for spouses of USCs.⁶⁵ All pending criminal charges are disqualifying for PIP, regardless of whether the charge is for a felony or misdemeanor. Additionally, all felony convictions are automatically disqualifying as are convictions – regardless of whether they are felony convictions - for:

- Murder, torture, rape, or sexual abuse;
- Offenses involving firearms, explosive materials, or destructive devices;
- Offenses relating to peonage, slavery, involuntary servitude, and trafficking in persons;
- Aggravated assault;
- Offenses relating to child pornography, sexual abuse or exploitation of minors, or solicitation of minors;
- Domestic violence, stalking, child abuse, child neglect, or child abandonment; and
- Controlled substance offenses (other than simple possession of 30 grams or less of marijuana)

⁶⁵ *Id.* At 67471.

All other criminal convictions result in a presumption of ineligibility that can be overcome with positive equities.⁶⁶

Similarly, applicants with final removal orders will be presumed to be ineligible for PIP but, that presumption can be overcome by presenting factors “underlying the unexecuted removal order.”⁶⁷ Applicants with pending removal proceedings may also apply for PIP and will be considered on a case-by-case basis.

The application process for PIP for spouses is also different from Military PIP. The application is only available online on a new form, the I-131F. There is also a \$580 application fee which is not waivable that must be paid for each application (i.e., if a spouse and stepchild are both applying for PIP, two I-131Fs must be filed and a separate application fee of \$580 must be paid for each application).

USCIS began accepting applications as planned on August 19, 2024 and immediately started approving applications. However, on August 23, 2024 the governments of 16 states filed a federal lawsuit to stop the implementation of the PIP process in the Eastern District of Texas.⁶⁸ On August 26, 2024, the judge issued a temporary restraining order halting implementation of the program for 14 days while matters of parties and venue were decided.⁶⁹ However, on September 11, 2024, the Fifth Circuit issued an order halting the District Court proceedings while considering the appeal of an intervenor motion that was denied by the District Court, which leaves the temporary restraining order in place indefinitely.⁷⁰ During the stay, USCIS is enjoined from adjudicating applications, though the agency is still able to accept applications.⁷¹ USCIS has not committed to returning any application fees received if the Court does not allow KFT PIP applications to move forward. As such, clients should take into account that they may lose their application fees if they submit a KFT PIP application before the Court proceedings are concluded.

⁶⁶ *Id.* The FRN contains a non-exhaustive list of positive factors to be considered when assessing an applicant's criminal history.

⁶⁷ *Id.*

⁶⁸ *Texas v. DHS*, No. 6:24-cv-00306 (E.D. Texas, Aug. 23, 2024)

⁶⁹ *Texas v. DHS*, No. 6:24-cv-00306 (E.D. Texas, Aug. 26, 2024).

⁷⁰ *Texas v. DHS*, No. 24-40571 (5th Circ., Sept. 11, 2024).

⁷¹ USCIS, *Keeping Families Together*, (Last Updated/Reviewed Aug. 28, 2024), <https://www.uscis.gov/keepingfamilies-together>.



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