



October 6, 2020

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Policy Alert

SUBJECT: Temporary Protected Status and Eligibility for Adjustment of Status under Section 245(a) of the Immigration and Nationality Act

Purpose

U.S. Citizenship and Immigration Services (USCIS) is updating policy guidance in the [USCIS Policy Manual](#) regarding whether temporary protected status (TPS) beneficiaries are eligible for adjustment of status under section 245(a) of the Immigration and Nationality Act (INA).

Background

To be eligible for adjustment of status under INA 245(a), an alien must have been inspected and admitted or inspected and paroled into the United States, unless exempt from this requirement. According to USCIS' and legacy Immigration and Naturalization Service's long standing interpretation confirmed by the Third and Eleventh Circuit Courts of Appeal¹, an alien who enters the United States without having been inspected and admitted or inspected and paroled, and who is subsequently granted TPS, generally does not meet this requirement. However, federal appellate courts in the Sixth and Ninth Circuits have held that a grant of TPS is considered an admission for purposes of adjustment.²

This updated guidance, contained in Volume 7, Part B of the Policy Manual, is controlling and supersedes any prior guidance on the topic.

Policy Highlights

- Reaffirms USCIS' long-standing interpretation, affirmed by the Third and Eleventh Circuit Courts of Appeal, that a grant of TPS is not an admission for INA 245(a) adjustment purposes.³
- Clarifies that the applicability of the decisions in the Sixth and Ninth Circuits is limited to those jurisdictions.
- Incorporates *Matter of Z-R-Z-C*, which held that generally TPS beneficiaries who travel outside the United States with prior authorization pursuant to INA 244(f)(3) and return to the United States resume the same immigration status they had when they departed, and therefore by

¹ See *Serrano v. Att'y Gen.*, 655 F.3d 1260 (11th Cir. 2011) (per curiam). See *Sanchez v. Sec'y United States Dep't of Homeland Sec.*, No. 19-1311, 2020 WL 4197523 (3rd Cir. 2020).

² See *Flores v. USCIS*, 718 F.3d 548 (6th Cir. 2013). See *Ramirez v. Brown*, 852 F.3d 954 (9th Cir. 2017).

³ See *Matter of H-G-G-*, 27 I&N Dec. 617 (AAO 2019).

virtue of that travel are not considered inspected and admitted or inspected and paroled for purposes of INA 245(a).⁴

Citation

Volume 7: Adjustment of Status, Part B, 245(a) Adjustment, Chapter 2, Eligibility Requirements [[7 USCIS-PM B.2](#)].

⁴ See *Matter of Z-R-Z-C*, Adopted Decision 2020-02 (AAO 2020).