

PAROLE: ICE, CBP, and USCIS



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- Parole does not constitute a formal admission to the United States and confers temporary status only, requiring parolees to leave when the conditions supporting their parole cease to exist.

Types of parolees include:

- **Deferred inspection:** authorized at the port upon alien's arrival; may be conferred by an immigration inspector when aliens appear at a port of entry with documentation, but after preliminary examination, some question remains about their admissibility which can best be answered at their point of destination.

Advance parole

- **Authorized at an DHS District office in advance of alien's arrival; may be issued to aliens residing in the United States in other than lawful permanent resident status who have an unexpected need to travel and return, and whose conditions of stay do not otherwise allow for readmission to the United States if they depart.**

Port-of-entry parole

- **Authorized at the port upon alien's arrival; applies to a wide variety of situations and is used at the discretion of the supervisory immigration inspector, usually to allow short periods of entry. Examples include allowing aliens who could not be issued the necessary documentation within the required time period, or who were otherwise inadmissible, to attend a funeral and permitting the entry of emergency workers, such as fire fighters, to assist with an emergency.**

Humanitarian parole

- **Authorized at DHS headquarters for "urgent humanitarian reasons" specified in the law. It is used in cases of medical emergency and comparable situations.**

Public interest parole

- **Authorized at DHS headquarters for "significant public benefit" specified in the law. It is generally used for aliens who enter to take part in legal proceedings.**

Overseas parole

- Authorized at an DHS District or suboffice while the alien is still overseas; designed to constitute long-term admission to the United States. In recent years, most of the aliens the DHS has processed through overseas parole have arrived under special legislation or international migration agreements.

HUMANITARIAN PAROLE

Section 212(d)(5) of the Immigration and Nationality Act (“INA”) grants the Attorney General authority to parole into the United States aliens seeking admission “on a case-by-case basis for urgent humanitarian reasons or significant public benefit.”

HUMANITARIAN PAROLE

- Can be applied for in U.S. by sending application to USCIS Dallas Lockbox, Parole Unit
 - Filed on Form I-131, with detailed explanation
 - Documentary evidence of humanitarian need
 - I-134 Affidavit of Support
- If you are currently in removal proceedings or have been previously removed from the United States, you will need to submit your request to:
 - Homeland Security Investigations
Attn: Law Enforcement Parole Unit
11320 Random Hills Rd Stop 5122
Fairfax, VA 20598-5122
- One can also apply directly with CBP at the Port of Entry, very useful in emergency circumstances

Medical Parole

- An explanation from a medical doctor stating the diagnosis and prognosis, and how long the treatment is expected to last
- Information on the reasons why you cannot obtain treatment in your home country or in a neighboring country
- The estimated cost of the treatment and an explanation on how the treatment will be paid for
- How you will pay to return to your country

ADVANCE PAROLE

8 CFR § 212.5(f) authorizes USCIS to grant advance parole to aliens who will travel without a visa, by issuing “an appropriate document authorizing travel.” The majority of advance parole documents, issued on Form I-512, are granted to applicants for adjustment of status who seek “to depart temporarily from the U.S. for any bona fide business or personal reason[s]” while the application remains pending.

USCIS and CBP

Parole authority is shared and exercised jointly by USCIS and CBP. USCIS is responsible for adjudication of applications for advance parole and issuance of Form I-512 to eligible adjustment applicants. CBP is responsible for inspecting and paroling those adjustment applicants into the U.S. upon presentation of the Form I-512.

Parole Entry and Inadmissibility under 212(a)(9)(B) after Arrabally and Yerrabally

Historically, INS and USCIS interpreted departure from the U.S. on an advance parole document as a “departure” for the purpose of triggering the three or ten year bar. In the recent precedent decision *Matter of Arrabally and Yerrabally*, the Board of Immigration Appeals (BIA) held that departure from the U.S. on advance parole is not a “departure” for the purpose of triggering the ten year bars.

In *Arrabally*, the respondents returned to the U.S. on advance parole in order to resume processing of their applications for adjustment of status. The Board provided the following rationale for its holding:

- a. Unlike other grounds of inadmissibility, the ten year bar is triggered specifically by the alien’s departure from the U.S.
- b. The terms “depart” and “departure” are not statutorily defined and that while it could encompass departures made by advance parolees, it is clear that Congress did not intend the statute to apply to aliens “who have left and returned to the United States pursuant to a grant of advance parole.”
- c. Advance parole is a government authorization to leave and return to the U.S. without abandoning a pending application.
- d. The above-noted agency memoranda stating to the contrary that departure on advance parole can trigger the three or ten year bar are neither binding nor ultimately persuasive.

ICE Parole and Adjustment Eligibility

An individual who is bonded out of ICE custody is “conditionally paroled”, and not eligible for Adjustment of Status on the basis of that parole.

**-See *Matter of Luis CASTILLO-PADILLA*,
25 I&N Dec 257 (BIA 2010)**

- **Exception:** An individual apprehended upon entry who is determined to have a “credible fear” of persecution or torture, can be paroled under 212(d)(5)(a) while they are placed in removal proceedings, which renders them eligible for Adjustment under 245(a).

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ICE may grant this type of parole if the entrant can establish to ICE’s satisfaction: (1) his identity; (2) that he is likely to appear for all scheduled hearings and enforcement appointments (including for removal from the United States if you are ordered removed); and (3) that he does not present a security risk to the United States or a danger to the community.

Parole in Place

- A process by which USCIS can issue parole to an Immediate Relative of active duty U.S. military personnel, thereby allowing an EWI entrant to Adjust Status under 245(a)
- Parole in Place is only useful in getting around “admission or parole” requirement, and will not solve other inadmissibility problems.