



HERE TO WORK

Parole and State-Sponsored Work Authorization

A Legal Memo Prepared by Greenberg Traurig LLP and ABIC

The United States is experiencing an unprecedented labor shortage, affecting numerous sectors of the economy, and spread across many states. There are many migrants living in the U.S. who possess skills necessary to fill critical jobs, but who lack official authorization to work. The Biden Administration has the power to enable American employers to legally employ needed workers.

Why is this Parole needed?

- Clear public benefit - Current immigration policy and work visa programs do not address labor shortages and mostly benefit large metropolitan areas. Protracted and growing labor shortages are having a detrimental effect on consumers, the U.S. economy, and America's global competitiveness.
- The Department of Homeland Security (DHS) can exercise its discretionary parole authority to temporarily parole into the U.S. or parole in place noncitizens to fill vacant positions where doing so would provide a significant public benefit to the U.S.
- U.S. population growth has fallen to 80-year lows. Population loss leads to economic decline, and has negative effects on housing markets, local government finances, productivity, and the economy in general. States and municipalities with population loss have the highest levels of labor shortages.^{1 2 3 4 5}
- Parole and state-sponsored work authorization would allow states and local government units experiencing population loss and labor shortages a mechanism to attract new workers.
- Individual states and local governments would have the option of participating by identifying geographic areas with labor shortages and inviting workers to apply for open positions in line with state needs. Individual workers can be sponsored by employers, advocacy groups or other organizations.

¹ [Employment Projections - 2021-2031 \(bls.gov\)](https://www.bls.gov/news.release/archives/proj20210301.pdf)

² [Demographic Drought | Lightcast](https://www.lightcast.com/blog/demographic-drought/)

³ [US Declining Population, Worker Shortage Will Cause Economic Crisis Without a Fix \(businessinsider.com\)](https://www.businessinsider.com/us-declining-population-worker-shortage-will-cause-economic-crisis-without-a-fix-2021-03)

⁴ [Understanding America's Labor Shortage: The Most Impacted States | U.S. Chamber of Commerce \(uschamber.com\)](https://www.uschamber.com/understanding-americas-labor-shortage-the-most-impacted-states/)

⁵ [Let States Sponsor Immigrants to Meet Their Work Needs | Opinion \(newsweek.com\)](https://www.newsweek.com/let-states-sponsor-immigrants-meet-their-work-needs-opinion-1501111)

- Parole provides a strategy to address labor shortages while increasing economic activity and repopulation of areas/states that are seeing significant decline.

What is the legal basis for Parole and State-Sponsored Work Authorization?

- INA 212(d)(5)(A) grants the Secretary of Homeland Security the discretionary authority to parole noncitizens into the U.S. temporarily, on a case-by-case basis, for urgent humanitarian reasons or **significant public benefit**.⁶
- The statute does not define urgent humanitarian reasons or significant public benefit. Through rulemaking (Federal Register Notices) and policy memoranda, DHS has provided its personnel guidance about the types of factors to be considered in adjudicating parole requests.
- Parole authority has been delegated to each of the DHS's immigration components:
 - U.S. Customs and Border Protection (CBP)
 - U.S. Immigration and Customs Enforcement (ICE)
 - U.S. Citizenship and Immigration Services (USCIS).
- 2008 Memorandum of Agreement between the above Agencies details which Agency will handle which type of parole request, but the authority to grant parole rests equally with all three Agencies.⁷
- Similar parole programs that which for work authorization include:
 - "Parole in place" for undocumented dependents of members of the Armed Forces
 - Parole for Cubans, Haitians, Nicaraguans, and Venezuelans⁸
 - International Entrepreneur Parole (IEP)⁹
 - Paroles for Afghan Nationals¹⁰
 - Cuban and Haitian Family Reunification Parole Programs¹¹
 - Filipino World War II Veterans Parole Program¹²

What would be the process?

- DHS can implement the process by publishing official notification of the new program or first engage in a public notice-and-comment period (e.g. IEP) through the Federal Register
- Individuals can be paroled from outside the U.S. or paroled in place for those individuals that are already present in the U.S.
- Once paroled, individuals may be work authorized incident to parole or apply for an Employment Authorization Document (EAD) through DHS, which may or may not be annotated for specific states or occupations.

⁶ [Guidance on Evidence for Certain Types of Humanitarian or Significant Public Benefit Parole Requests | USCIS](#)

⁷ [Parole Authority Memorandum of Agreement \(ice.gov\)](#)

⁸ [Processes for Cubans, Haitians, Nicaraguans, and Venezuelans | USCIS](#)

⁹ [International Entrepreneur Rule | USCIS](#)

¹⁰ [Information for Afghan Nationals on Requests to USCIS for Parole | USCIS](#)

¹¹ [The Haitian Family Reunification Parole \(HFRP\) Program | USCIS](#) and [The Cuban Family Reunification Parole Program | USCIS](#)

¹² [Filipino World War II Veterans Parole Program | USCIS](#)

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- Parole and work authorization can be extended to spouses and minor children of principal parolees.
- DHS can use existing parole programs as models for administration of this parole and work authorization. Please see references and links to other programs above.

Models from other countries:

- Canada
 - Provincial Nominee Program provides work visa and a pathway to citizenship for those that have the skills, education and experience to contribute to the specific needs of the province.¹³
- Australia
 - Work visas and citizenship available to individuals who have skills in occupations defined as shortage areas and are invited to apply for a work visa.¹⁴

¹³ [How the Provincial Nominee Program \(PNP\) works - Canada.ca](#)

¹⁴ [Subclass 190 Skilled Nominated visa \(homeaffairs.gov.au\)](#)