

Asylum & Temporary Protected Status: Should I Apply for One or Both?



What are Asylum and TPS?

- **Asylum** - If you've been persecuted or fear harm in your home country, you can apply for asylum. In order to win asylum, you usually have to prove that harm is directed at you. You also have to show that you fear being harmed because of your race, religion, nationality, political opinion, or a characteristic you can't change, like gender or sexual orientation. If your asylum application is approved, you can later apply for a green card.
- **Temporary Protected Status (TPS)** - TPS is a temporary status that can be granted to individuals from certain countries when the United States government determines that it is unsafe for citizens of that country to return home due to natural disasters, armed conflict, or other dangerous conditions. Haitian citizens who have been living in the US since at least June 3, 2024 may apply for TPS. Applicants for TPS don't have to prove they'll get harmed directly. If granted TPS, you receive a work permit and protection from deportation. However, there's no direct path from TPS to a green card.

Comparison of TPS and Asylum

TPS	Asylum
TPS will be decided by U.S. Citizenship and Immigration Services (USCIS).	Asylum can be decided by an officer with the U.S. Citizenship and Immigration Services (USCIS) if you submitted an affirmative application, or an immigration judge if you are in immigration court.
TPS recipients can request permission to travel home (advance parole).	Asylees should not return to their country of origin and persecution until they become US citizens.
The TPS application process is simpler than the asylum application process and much more likely to result in approval.	The TPS application process is simpler than the asylum application process and much more likely to result in approval. The asylum application process is more complex and is less likely to result in approval.
A final decision on a TPS application is typically made approximately 6 months to 1.5 years after the application is submitted.	A final decision on an asylum application is usually issued after approximately 4-6 years or longer due to wait times.

If you choose to apply for TPS and Asylum, remember that each application is separate, but both applications will be reviewed by immigration so it is important for the information to be consistent. Make sure whoever helps you apply for either benefit has copies of your previous applications so the information submitted to immigration is consistent.

Disclaimer: This isn't individual legal advice. If you have questions about applying for TPS and asylum you should get legal advice from an immigration attorney or DOJ accredited representative.

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What should I do if I am eligible for both TPS and Asylum?

You can apply for both TPS and asylum! Most people who are eligible for both should apply for both, but there are a few exceptions to this. Read the rest of this document to understand more about what may happen when you apply for both asylum and TPS. If you have a lawyer helping you with your asylum case, they can help you decide whether you should also apply for TPS

- **If I have already applied for asylum and now want to apply to TPS, can I do that?**

Yes. TPS is a temporary status and applying for it will not affect a pending asylum application. It is possible to have two statuses at the same time. Applying for TPS helps protect you from removal even if your asylum application is denied. If you have a strong asylum case and you're in immigration court, you may want to speak with an immigration attorney before applying for TPS.

- **How does a TPS application affect my pending affirmative asylum case I filed with USCIS?**

Requesting or receiving TPS does not change how a USCIS officer will review your asylum application. You can be granted asylum even if you already have TPS. If you have TPS and you are not granted asylum, you will still keep your TPS status.

- **I heard that if I am approved for TPS, the immigration court will deny my asylum application. Is that true?**

No. Having TPS does not affect whether or not the judge approves your asylum application. The judge's decision on your asylum case is based on whether the evidence you presented proves that you have or will suffer harm in your home country due to your race, religion, nationality, political opinion, or a characteristic you can't change, like gender or sexual orientation.

You cannot be deported if you have TPS. It is possible that the immigration court will take action in your case if you are approved for TPS. The immigration judge can:

- Terminate the removal proceedings against you. Termination will mean that any pending applications in court will be closed, including pending asylum applications.
- Close your case without making a decision about whether you qualify for asylum. If your asylum case is closed in immigration court because you have TPS, you can talk to an immigration attorney about submitting a new asylum application with USCIS.
- Decide your asylum application. You can be granted asylum, or denied asylum. Denial means that the judge has reviewed all of the evidence you submitted and decided you do not qualify for asylum. If your asylum case is denied in immigration court, you usually cannot reapply. You will not lose TPS status if your asylum application is denied.

If I apply for TPS now but want to wait to apply for asylum in the future, will I be able to do that?

It is possible that if you apply for TPS now, you can wait to apply for asylum in the future as long as you continue to maintain lawful status. Usually you must apply for asylum within one year of when you arrive in the United States. There is an exception to this one year deadline for people who have maintained lawful status. Many Haitians entered the country with parole and will receive TPS while still in parole status. These individuals can apply for asylum when TPS ends.

Waiting to file an asylum application can be risky, so you should consult with an immigration attorney to figure out the best strategy for your case.

What happens if TPS is terminated in the future?

A TPS designation can be terminated. This can happen if conditions in the country improve, or if the next president decides to terminate it. If this happens, there will likely be a lawsuit regarding the termination and TPS will not end suddenly. If you have an active immigration court case, your case will proceed as scheduled.

If your immigration court case was terminated or closed because you were approved for TPS, your immigration court case may be reopened. If you are not and never have been in immigration court proceedings, you could be placed in deportation proceedings. Whether this happens will depend on the enforcement policies of the federal government at the time TPS is terminated.