

WHAT UNIONS NEED TO KNOW ABOUT TEMPORARY PROTECTED STATUS TERMINATIONS

In 2018, the Department of Homeland Security (DHS) announced the termination of Temporary Protected Status (TPS) for numerous countries, including El Salvador, Haiti, Honduras, Nepal, Nicaragua and Sudan. The courts had temporarily blocked these terminations, but a recent decision may allow TPS protections to be stripped from hundreds of thousands of workers in the near future. Here's what you need to know:

Termination dates are still uncertain, but they will not be immediate

More than 300,000 people get their work authorization through TPS, so terminations will have a serious impact on workers, including many union members. Legal challenges are ongoing, and the termination dates for workers will depend on which country they are from. For now, the most we can say for certain is that the earliest any TPS worker may lose status is March 5, 2021, and the earliest possible date for TPS workers from El Salvador is Nov. 5, 2021.

Work permits will be extended as long as Temporary Protected Status is active

Although the Trump administration has announced terminations for six TPS countries, the status for workers will not end until the dates specified. Work permits for TPS holders are automatically extended until that time without workers having to take any further action. U.S. Citizenship and Immigration Services (USCIS) posts updates on status extensions for workers from each country at uscis.gov/tps, and employers should not terminate or take any other adverse action against TPS workers during these extension periods.

TPS holders should face no immediate impact at work

Employment Authorization Documents (EADs), or work permits, for TPS holders are automatically extended beyond the printed expiration date on the schedule posted by USCIS. Should an employer refuse to allow a TPS holder to work despite having a valid EAD, the worker should contact the union immediately.

Employers should not and need not reverify work authorization documents of TPS holders simply based on the court decision. However, employers are required to reverify work authorization documents upon their expiration. When asked, workers should simply present copies of the relevant Federal Register notice to show the validity of their work permits. Federal guidance on TPS EAD renewal, including Federal Register notices, can be found at uscis.gov/tps.

TPS holders need to take steps now to prepare and explore their legal options

Before deadlines arrive, TPS holders should take immediate steps to prepare for potential termination, loss of work, and removal or deportation from the United States, and explore their options for adjustment of status. By some estimates, as many as 30% of TPS holders may be eligible for relief through alternate pathways, so unions should help ensure that members receive reliable legal advice. Every case is unique, and now is the time to consult with an attorney to determine whether other, more permanent forms of protection may be available.

Unions have a key role to play

Working people with TPS need to know that the union has their backs in this extremely difficult time. Unions should be informed about the issue, provide information and support to their members, and engage in the fight for legislative solutions. They should also take proactive steps now to negotiate explicit protections with employers, including reinstatement rights and protocols for worksite immigration enforcement.