



OBTAINING ADVANCE PAROLE ON A PENDING ADJUSTMENT OF STATUS APPLICATION

Posted on July 28, 2024 by Cyrus Mehta

By Cyrus D. Mehta

Those who have filed an I-485 application adjustment of status must obtain [advance parole](#) before they travel outside the US while their I-485 application. Section 212(d)(5)(A) of the Immigration and Nationality Act (INA) authorizes the Secretary of Homeland Security, at his or her discretion, to “parole into the United States temporarily under such conditions as he may prescribe only on a case-by-case basis for urgent humanitarian reasons or significant public benefit any alien applying for admission into the United States.” Travelling outside the US without advance parole will result in abandonment of the application. It may also result in a finding of inadmissibility at the port of entry. Nonimmigrants who are in H-1B or L-1 status do not need to apply for advance parole and can return to the US on the underlying H-1B or L-1 visa in their passports. Those in H-1B or L nonimmigrant status who travel on advance parole may be paroled to resume in H-1B and L status under USCIS policy established in the [Cronin memo](#). Nonimmigrants in valid V-1 or V-2/V-3 status or K-3/K-4 status who have an I-485 application pending also do not need advance parole.

It is thus important for the adjustment applicants who are not exempt to obtain advance parole before departing the US by filing [Form I-131](#). The processing times for an advance parole can be maddeningly long and can vary from one USCIS service center to another. The processing time for an I-131 at the Texas Service Center is 26.5 months and only 4 months at the Nebraska Service Center. It is 8.5 months at the Vermont Service Center, 12.5 months at the National Benefits Center and 14 months at the California Service Center. One cannot select the USCIS Service Center that takes the fastest time. You are required to file at a centralized location and the I-131 then application gets

randomly designated to a Service Center. It is the luck of the draw if the I-131 gets sent to the Nebraska Service Center, which has a 4 months processing time, as compared to the Texas Service Center, which is 26.5 months.

These processing times are published on <https://egov.uscis.gov/processing-times/>. They are not exact processing times as the USCIS qualifies them by stating that 80% of cases are completed within the published processing time. Hence, the processing time may take longer or shorter than the published processing time.

The ability to travel while the I-485 application is pending is important for many applicants, resulting in hardship and inconvenience if the applicant must wait for 26.5 months before they can travel due to a family emergency or a social trip like attending a wedding. It is possible to request to expedite the processing of an I-131 application for advance parole as well as request for emergency parole under limited circumstances. Even so, the likelihood of the request for expedite or emergency parole being granted is uncertain. On the other hand, outside the expedite and emergency context, the USCIS issues advance parole rather routinely without the need for a lengthy justification with the Form I-131.

While this blog focuses on obtaining advance parole when an I-485 application is pending, advance parole can also be obtained when one has a pending Form I-181 application for Temporary Protected Status (although travel under TPS has a [separate statutory](#) basis), or has been granted T or U nonimmigrant status. Advance parole can also be granted to one who has been paroled pursuant to INA 212(d)(5) or to one who has been granted deferred action under the Deferred Action for Childhood Arrivals (DACA). The [instructions](#) to Form I-131 provides details under which travel permission is granted under various situations. It should also be noted that if an individual who has been unlawfully present and is subject to the 3 or 10 year bar upon departing the United States, leaving the US under advance parole is not considered a departure for triggering the 3 or 10 year bars under INA 212(a)(9)(B) pursuant to [Matter of Arrabally and Yerrabelly](#).

Expedited Processing

The USCIS has published criteria at <https://www.uscis.gov/forms/filing-guidance/expedite-requests> to expedite the processing of a number of applications including the I-131 application for

advance parole. These include

- Severe financial loss to a company or person, provided that the need for urgent action is not the result of the petitioner's or applicant's failure to timely file the benefit request or to timely respond to any requests for evidence; Emergencies or urgent humanitarian situations;
- Nonprofit organization (as designated by the Internal Revenue Service (IRS)) whose request is in furtherance of the cultural or social interests of the United States;
- Government interests, including cases identified by the government as urgent because they involve the public interest, public safety, national interest, or national security interests; and
- Clear USCIS error. The USCIS has included certain travel related requests under "emergencies or urgent humanitarian situations" as follows:

Expedited processing of a travel document may be warranted when there is an unexpected need to travel outside the United States for an unplanned event, such as for a funeral. Expedited processing of a travel document may also be warranted when there is a pressing or critical need to travel outside the United States for a planned event, but processing times prevent USCIS from issuing the travel document by the planned date of departure. When there is a request to expedite processing of a travel document for a planned event, we will consider whether the applicant timely filed [Form I-131](#) or timely responded to a request for evidence.

NOTE: A benefit requestor's desire to travel solely for vacation generally does not meet the definition of a pressing or critical need to travel.

Examples of evidence depending on the travel related event are listed in the above mentioned expedited criteria portal.

The best way to contact USCIS is by contacting the customer support number at 800-375-5283 once the I-131 receipt notice has been issued with the appropriate case number. There are other suggested ways too, set forth at <https://www.uscis.gov/contactcenter> in addition to calling the telephone number such as contacting USCIS's chatbot, Emma. Submitting documents in support of the request in the USCIS online account is also required prior to contacting the USCIS.

Emergency Advance Parole

An alternate way to request faster processing of advance parole is by requesting an emergency appointment if there is a pressing need to travel in less than 15 days. See <https://www.uscis.gov/greencard/greencardprocesses/traveldocuments/emergencytravel> for further details. The USCIS includes the following examples that qualify for emergency parole:

- *A requestor who has a pressing or critical need to travel to obtain medical treatment in a limited amount of time.*
- *A requestor who has a pressing or critical need to travel due to the death or grave illness of a family member or close friend.*
- *A requestor who timely applied for a travel document and requested expedited processing, but their case remains pending, and they now must travel within 15 days for a pressing or critical professional, academic, or personal commitment.*

The emergency advance parole will be issued for only 30 days although the previously filed I-131 application will continue to process even if the emergency parole is granted for 30 days. The applicant must have gone through the biometrics procedure. Even if there is already a pending I-131 application that was previously filed, the requestor must submit a completed I-131 application during the appointment at the local USCIS office along with supporting documentation that is listed under the USCIS's above mentioned expedited criteria.

Advance Parole is an Unnecessary Bureaucratic and Time Consuming Obstacle

There is really no need to establish such a complex, time consuming and expensive procedure for I-485 adjustment applicants to apply for and obtain advance parole. The USCIS ought to automatically issue travel permission when issuing the receipt notice upon filing the I-131 application. The applicant has filed an application for lawful permanent residence through Form I-485, and it is quite unnecessary to require yet another interim application for advance parole with absurdly long and uncertain processing times.

Advance parole is generally issued for one year although recently some

applicants receive a 5 year advance parole along with a 5 year employment authorization. If further travel is necessary, the advance parole must be renewed if the I-485 application is still pending after the initial authorization has expired. If the applicant travels on the already issued advance parole after the new I-131 has been filed, the USCIS may needlessly deny the new advance parole.

Although this blog informs readers about the advance parole procedures while the I-485 application is pending, this author advocates for the abolition of a separate time consuming and unnecessary advance parole request procedure. USCIS must automatically issue advance parole with the I-485 receipt notice.

(This blog is for informational purposes only, and should not be relied upon as a substitute for legal advice).