



# Questions and Answers

September 13, 2007

## DEFERRED ENFORCED DEPARTURE (DED) FOR CERTAIN LIBERIANS

**Q. What is Deferred Enforced Departure (DED)?**

**A.** The President has discretion to authorize DED under his constitutional authority to conduct foreign relations. Presidents of both parties have employed DED, when necessary. Although DED is not a specific immigration status, individuals covered by DED are not subject to enforcement actions to remove them from the United States, usually for a designated period of time. When presidents have exercised their discretion to provide DED to a certain group of individuals, they generally direct that Executive Branch agencies, such as the Department of Homeland Security (DHS), take steps to implement appropriate procedures to apply DED and related benefits, such as employment authorization, to those individuals.

**Q. Why did the President grant DED to certain Liberians?**

**A.** On September 20, 2006, DHS published a *Federal Register* notice at 71 FR 55000, terminating the Temporary Protected Status (TPS) designation of Liberia with a 12-month delayed effective date. Currently, there are approximately 3,500 Liberians in the United States under the TPS designation, which will expire at 12:01 a.m. on October 1, 2007.

While acknowledging the progress in Liberia under their current administration, President Bush has determined that there are compelling foreign policy reasons not to enforce the departure of these Liberians at this time. In particular, there is a significant risk that such a decision would adversely affect the process of reconstruction and economic stabilization under way in Liberia and cause further strain on limited resources necessary to absorb the thousands of former Liberian refugees who are returning from the West African region and elsewhere. As such, the President determined on September 12, 2007 to defer for 18 months enforced departure of Liberian nationals, or persons without nationality who last habitually resided in Liberia, who are present in the United States and who have TPS as of September 30, 2007.

**Q. Who is covered by DED under the President's Memorandum regarding Liberians?**

**A.** On September 12, 2007, President George W. Bush issued a memorandum directing Secretary of Homeland Security, Michael Chertoff, to take the necessary steps to implement DED procedures for Liberian nationals (or persons without nationality who last habitually resided in Liberia), with certain limited exceptions, who are present in the United States, who have TPS as of September 30, 2007, and who have continuously resided in the United States since October 1, 2002.

**Q. Are there any Liberians, or persons without nationality who last habitually resided in Liberia, who have TPS that is expiring, but who are ineligible for DED?**

A. Yes. Certain individuals are not eligible for DED under the President's directive. They include any person: (1) who is ineligible for TPS for the reasons provided in section 244(c)(2)(B) of the Immigration and Nationality Act, which include persons convicted of a felony or two or more misdemeanors in the United States, persecutors, persons involved in terrorist activity, and persons who are determined to pose a danger to the security of the United States, among certain others; (2) whose removal is determined to be in the interest of the United States; (3) whose presence or activities in the United States the Secretary of State has reasonable grounds to believe would have potentially serious adverse foreign policy consequences for the United States; (4) who has voluntarily returned to Liberia or his or her country of last habitual residence outside the United States; (5) who was deported, excluded, or removed prior to the date of this memorandum; or (6) who is subject to extradition.

**Q. How long will eligible Liberians (and persons without nationality who last habitually resided in Liberia) be covered by DED?**

A. Eligible Liberians (or persons of no nationality who last resided in Liberia) will be covered by DED for 18 months from October 1, 2007 until March 31, 2009.

**Q. Must an individual who had TPS under the Liberia designation as of September 30, 2007 apply or register to receive DED?**

A. No, DED is automatic for qualified Liberians and persons without nationality who last habitually resided in Liberia, regardless of age.

**Q. Is an individual who is eligible for DED under the President's Memorandum also authorized to work in the United States?**

A. Yes. President Bush further directed that the Secretary of Homeland Security implement procedures to provide employment authorization for 18 months from October 1, 2007 for the Liberians (and persons without nationality who last habitually resided in Liberia) who are eligible for DED. U.S. Citizenship and Immigration Services (USCIS) will publish a *Federal Register* notice very soon that will describe the specific procedures for an automatic extension of employment authorization through March 31, 2009 for the individuals eligible for Liberian DED, including information regarding the extension of Employment Authorization Documents (EAD) that were issued to such individuals in conjunction with their TPS status that expires on October 1, 2007 and information on obtaining an EAD if the person does not possess one and wants to receive one while under DED. DHS will also be updating these Questions and Answers with more detailed information on employment authorization once the *Federal Register* notice is published. The *Federal Register* notice and the updated Questions and Answers will be available on the USCIS website at [www.uscis.gov](http://www.uscis.gov).

Employers and employees are reminded that individuals who are eligible for Liberian DED may continue to present any legally acceptable document or combination of documents listed on the Form I-9, Employment Verification Form, for purposes of demonstrating employment authorization.

**Q. Can a Liberian (or person without nationality who last resided in Liberia) who is covered by DED until March 31, 2009 leave the United States and be permitted to re-enter before that date?**

A. Yes, if he or she seeks and is granted discretionary advance parole by DHS, before departing the United States. Individuals who are covered by DED for Liberians must file a Form I-131, Application for Travel Document, with appropriate fee, to request advance parole. Applicants

must provide a copy of their last TPS-related EAD (or, if the applicant does not have a TPS-related EAD, submit a copy of their last Form I-797, Notice of Action, stating that the applicant has been granted TPS, if available, and a copy of the *Federal Register* notice once it is published. Liberians with DED who leave the United States without first requesting and obtaining advance parole are no longer eligible for DED, and may not be permitted to re-enter the United States. The determination whether to grant advance parole is within the discretion of DHS and is not guaranteed in every case.

**Q. Will a person covered by Liberian DED accrue “unlawful presence” for purposes of adjustment of status or other immigration benefits for which he or she may be applying?**

**A.** No, Liberians (or other persons without nationality who last habitually resided in Liberia) covered by DED do not accrue “unlawful presence” for the purposes of adjustment of status or other immigration benefits for which they may be applying during the period of time they are covered by DED.

**Q. If an individual who is eligible for Liberian DED does not have an EAD to indicate such eligibility, how can he or she prevent unnecessary removal from the United States?**

**A.** U.S. Immigration and Customs Enforcement (ICE) will issue guidance to its attorneys, officers, and agents to ensure that eligible Liberians or persons without nationality who last habitually resided in Liberia are not removed in violation of the President’s DED directive. The guidance will be consistent with the USCIS *Federal Register* notice that will be published shortly. Also, ICE employees are reminded that persons who were previously granted TPS under the Liberia designation are authorized to work in the United States through March 31, 2009.

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