

9 FAM 42.1 PROCEDURAL NOTES

*(CT:VISA-1173; 03-30-2009)
(Office of Origin: CA/VO/L/R)*

9 FAM 42.1 PN1 APPLICATION TO REPLACE FORM I-551, PERMANENT RESIDENT CARD

(CT:VISA-1173; 03-30-2009)

Consular officers may no longer accept an alien's application for replacement of the Form I-551, Permanent Resident Card, from aliens physically present in their consular district, since these applications now require biometrics. Instead, these aliens should be told to file Form I-90, Application to Replace Permanent Resident Card, when they return to the United States. See 9 FAM Appendix N, 300 if these individuals require additional documentation in order to apply for entry into the United States.

9 FAM 42.1 PN2 CASES NOT RECOMMENDED BY STATE FOR HUMANITARIAN PAROLE

(CT:VISA-1173; 03-30-2009)

In the vast majority of cases, you will not recommend a humanitarian parole case to U.S. Citizenship and Immigration Services (USCIS), but instead will refer the applicant to USCIS Humanitarian Assistance Branch, Office of International Affairs, so that the individual can apply directly. Information on humanitarian parole applications is found at the USCIS Web site.

9 FAM 42.1 PN3 PROCEDURES FOR RECOMMENDING HUMANITARIAN PAROLE

9 FAM 42.1 PN3.1 Information Required

(CT:VISA-1173; 03-30-2009)

When you believe that exceptional circumstances or grave humanitarian concerns warrant a State recommendation for humanitarian parole, you shall cable your recommendation to the U.S. Citizenship and Immigration Services (USCIS) Office of International Affairs Humanitarian Assistance Branch (with

an info copy to the Department's Post Liaison Division (CA/VO/F/P)).

9 FAM 42.1 PN3.1-1 Information to Include in the Cable

(CT:VISA-1173; 03-30-2009)

The following information must be included in the cable:

- (1) Complete name (including aliases), date and place of birth, occupation, and current address abroad of each prospective parolee;
- (2) A statement of the emergent reasons that parole should be authorized;
- (3) A statement of why a U.S. visa cannot be obtained for each prospective parolee and why a waiver is not available;
- (4) Certification that a consular lookout and support system (CLASS) namecheck was made and the results;
- (5) Confirmation that the required Form I-131, Application for Travel Document, filing fee has been paid, or a request for a waiver of the filing fee;
- (6) Length of time for which parole is sought (not to exceed one year);
- (7) Complete name, date and place of birth, immigration status, and alien registration number of the individual who signed the Form I-131, and the sponsor who signed the Form I-134, Affidavit of Support, and their relationship to the potential parolee(s); and
- (8) A list of supporting documents that will be submitted separately. (See 9 FAM 42.1 PN3.1-2.)

9 FAM 42.1 PN3.1-2 Supporting Documents

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The following additional information is required:

- (1) A completed and signed Form I-134, Affidavit of Support, and related financial documentation (see the Form I-134 instructions). A Form I-864, Affidavit of Support under Section 213A of the Act, is not to be used;
- (2) Copies of approved visa petitions (if any) for the potential parolee(s);
- (3) Evidence of each prospective parolee's identity in the form of copies of a birth certificate, passport, or other "official" document issued by his/her home country. If the potential parolee has experienced a name change, evidence of that name change must be provided in

- the form of copies of an "official" document issued by his/her home country (marriage certificate, divorce decree, adoption decree, court documents, etc.);
- (4) Evidence of the relationship between the potential parolee(s) and Form I-134 sponsor and each prospective parolee. This may be in the form of copies of a birth certificate, marriage certificate, adoption decree, etc;
 - (5) If humanitarian parole is being sought for medical reasons, a detailed explanation from each prospective parolee's medical doctor stating the diagnosis, prognosis, and the reasons why treatment cannot be obtained in the prospective parolee's home country or neighboring countries. Additionally, a letter from the U.S. physician who has agreed to treat the potential parolee along with a detailed explanation addressing the cost of and payment for the medical procedure/treatment in the United States; and
 - (6) Any other supporting documentation pertinent to the case.

9 FAM 42.1 PN3.2 Where to Send Humanitarian Parole Recommendation

(CT:VISA-1173; 03-30-2009)

- a. Post should forward humanitarian parole recommendations by cable to the USCIS Humanitarian Assistance Branch. In order to ensure that USCIS receives such cables and supporting documentation in a timely manner, posts should fax the cable plus supporting documentation to USCIS and e-mail electronic versions of the cable and supporting documentation to the CA/VO/F/P officer responsible for parole. The unclassified fax number for the USCIS Humanitarian Assistance Branch is 202-272-1690.
- b. In **all** cases where the consular officer recommends humanitarian parole, an info copy of the cable must be sent to the Department slugged for the CA/VO/F/P officer responsible for parole. Posts should identify any high profile cases likely to generate outside interest and must slug the cable in such cases to the Office of Public and Diplomatic Liaison (CA/VO/P) as well.

9 FAM 42.1 PN4 PROCEDURES FOR REQUESTING SIGNIFICANT PUBLIC BENEFIT PAROLE (SPBP)

9 FAM 42.1 PN4.1 Where to Submit Significant Public Benefit Parole (SPBP) Requests

(CT:VISA-1173; 03-30-2009)

Posts must submit SPBP requests to the Department (CA/VO/F/P and the relevant country desk). Requests must be cabled and must be unclassified or sensitive but unclassified (SBU). CA/VO/F/P and the country desk will coordinate with other interested Department bureaus and, if the request is approved for recommendation by the Deputy Assistant Secretary for Visa Services, it will be formally conveyed to USCIS or Immigration and Customs Enforcement (ICE) (whichever agency is appropriate). If any problems or questions relevant to the parole request should develop, the Department will alert the requesting post and solicit a response. Posts should note in their requests whether the individual for whom parole is sought was the subject of a previous parole recommendation, post reporting, or interagency discussion.

9 FAM 42.1 PN4.2 Format and Content of Significant Public Benefit Parole (SPBP) Requests

(CT:VISA-1173; 03-30-2009)

- a. Requests for SPBP must contain the following information:
- (1) Name of the principal alien;
 - (2) Date and place of birth of the principal alien;
 - (3) Justification for parole request;
 - (4) Proposed parolee's address abroad;
 - (5) Certification that a CLASS namecheck was made and the results;
 - (6) Information on the agency or individual financially responsible for the parolee's living expenses while he or she is in the United States, and, where applicable, a completed Form I-134, Affidavit of Support;
 - (7) Identification of those offices/agencies that have concurred in the request;
 - (8) The alien's expected travel itinerary and U.S. port of entry;
 - (9) Where applicable, names and biographic data for all accompanying family members and justification for their inclusion in the parole request;
 - (10) Certification that CLASS namechecks were made for all accompanying family members and the results of the namecheck(s); and

(11) Certification as below by the chief of mission (COM), deputy chief of mission (DCM), or appropriate Department official with the title of office director or higher.

b. The required language for the certification is as follows:

I, (Title), (Name of Embassy), U.S. Department of State, attest to the Deputy Assistant Secretary of State for Visa Services and the Department of Homeland Security (DHS) that:

- (1) The justification and information pertinent to the parole request are accurate and complete, insofar as information is available to this post.
- (2) Namechecks have been completed in the CLASS database on the person named in the request and, as appropriate, information obtained from foreign law enforcement agencies.
- (3) All database findings on the person named above, including copies of computer screens and other related materials have been identified and forwarded to the appropriate DHS office.
- (4) The following is a complete list of all Department offices and U.S. Government agencies known or thought to have an interest in this request: (List agencies, contact names, and numbers, as appropriate).

Signature/Name/Date

9 FAM 42.1 PN5 POST ACTION WHEN PAROLE IS AUTHORIZED

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USCIS or ICE will notify the post by cable (Visas 91) if a favorable decision is reached in a case. Interested parties (sponsors, Congressional offices, etc.) in the United States will be notified of the decision by mail. The cable will:

- (1) Authorize the issuance of a transportation letter;
- (2) Identify the parole beneficiary;
- (3) Indicate the length of time for which parole has been authorized;
- (4) List any known grounds of ineligibility and state that ineligibilities have been waived for the purposes of parole; and
- (5) State that a medical exam is required, if applicable.

9 FAM 42.1 PN5.1 Post Action Upon Authorization

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Upon receipt of the notification of approval for parole, the processing post must:

- (1) Verify the beneficiary's identity;
- (2) Review the results of the medical exam (if applicable);
- (3) Conduct the CLASS namecheck;
- (4) Verify that no other grounds of ineligibility exist;
- (5) Ensure that the applicant answers all questions under item 38 of Form DS-156, Nonimmigrant Visa Application. (Post may wish to use the Form DS-156 itself, and, if so, should annotate on the front of the Form DS-156 "Parole Case" and file the Form DS-156 at post.)
- (6) If post is using the DS-160, Electronic Nonimmigrant Visa Application, have the applicant fill out the form as if they were applying for a B1/B2 visa. Do not upload the application into the nonimmigrant visa (NIV) system, and make a note electronically on the case that it is a parole case vice a visa case.
- (7) If post is convinced that no other grounds of ineligibility exist, issue the necessary transportation letter (see 9 FAM Appendix N, Exhibit V). There is no charge for the transportation letter.

9 FAM 42.1 PN5.2 Post Action if Additional Ineligibility Grounds are Discovered

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If, in reviewing the notification of parole authorization, you determine that additional grounds of ineligibility unknown to USCIS or ICE may exist, contact the originator of the parole authorization, advise of the possible ineligibilities, and make a recommendation on the case. The authority to waive additional ineligibilities, reaffirm or revoke the authorization of parole rests with USCIS or ICE alone.

9 FAM 42.1 PN6 USCIS OR ICE DENIAL OF PAROLE

(CT:VISA-1173; 03-30-2009)

There is no appeal process for a USCIS or ICE denial of parole. However, in the rare instance when you feel there is pertinent information that was not included in the original request, you may request a review of the case. If it

is a humanitarian parole case, the cabled request for review should be sent to USCIS Humanitarian Assistance Branch with an info copy to CA/VO/F/P. If it is a Significant Public Benefit Parole (SPBP) case, the cabled request for review should be sent to CA/VO/F/P and the relevant country desk. In both instances, the subject line should read: Parole Reconsideration. A properly prepared first request should make a request for review unnecessary.

9 FAM 42.1 PN7 MEDICAL EXAMINATION RESULTS

(CT:VISA-1173; 03-30-2009)

If the parolee is required to have a medical examination, it will be stated in the parole authorization (Visas 91). In these cases the consular officer shall attach completed Form DS-2053, Medical Examination for Immigrant or Refugee Applicant, to the transportation letter referred in 9 FAM 42.1 PN5.1 (7). The applicant is responsible for paying for the medical examination. The consular officer may waive the medical examination in an emergency case if authorized by the agency that originated the parole authorization.