



## **PRESIDENTS' | ON HIGHER EDUCATION ALLIANCE | AND IMMIGRATION**

### ***Legal Pathways and Resources for Afghan Students and Scholars***

*September 8, 2021*

#### **1. What are legal options for Afghan students and scholars seeking to evacuate Afghanistan or a third country and enter the United States?<sup>1</sup>**

\*\* In general, as of today, people in third countries who are in a tenuous situation are the priority. Humanitarian parole, a temporary visa such as F or J, or finishing a green card may help them get here. For people still in Afghanistan, the goal is to set up a pathway for each of them if possible, understanding that we do not know when or if they will be able to leave the country.

- **Humanitarian Parole** is a [legal mechanism for entry into the United States](#) that involves an application form, fee, a person to request parole and a financial sponsor. Once a person is paroled, they can remain in the United States for the period authorized by the government and may apply for work authorization. At this point humanitarian parole is most useful for people who are in third countries with a functioning airport and US consulate, but if no other options humanitarian parole can be filed for people in Afghanistan to use when/if they are able to leave. **Port Parole** is a legal mechanism for entry into the United States that can be granted at an airport or post of entry by the Customs and Border Protection, and is a common tool used now for some evacuees arriving in the United States.
- **Special Immigrant** is a status that [qualifying Afghan nationals may apply for based on their service to the U.S. government](#). The SIV process is lengthy and involves an application form. An SIV holder is a lawful permanent resident (green card holder) following admission into the United States.
- **Refugee resettlement** allows certain Afghan nationals to be screened and admitted to the United States as a refugee because they face persecution in Afghanistan for a specific reason such as political opinion or religion. Some Afghan nationals may be referred by an agency like the UNHCR for a Priority 1 status while other Afghan nationals who do not qualify for an SIV but served or were involved in a U.S. program may qualify for a [Priority 2 Refugee](#) status referral. Referral for placement on a P-1 or [P-2](#) may not lead to refugee resettlement - it is simply placement on a list for consideration.
- **F-1** is a [status designated for international students](#) who are seeking admission to the United States to pursue a full course of study. Qualifying Afghan nationals who have received admission to a university may pursue this status

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<sup>1</sup> See generally [IRAP's website](#) and [this guide](#) for a broad overview of options. For resources while waiting in third countries, see <https://help.unhcr.org/>.

- **J-1** is a [status designated for exchange visitors and scholars](#) who are seeking admission to the United States as part of cultural exchange. A sponsor is required. Some Afghan nationals may enter the United States through a J-1 visa.

## 2. What are the legal options for Afghan students or scholars inside the United States?<sup>2</sup>

\*\* In general, people in the US have time to process what has happened over the past couple of months. Most are on temporary visas or have been paroled for two years as part of the evacuation. There is a one year deadline to file for asylum from the time of entry in the United States.

- **Asylum:** Afghan nationals who are already in the United States, including those who are paroled, can apply for [asylum](#) if they can show they would suffer or have suffered persecution because of race, religion, nationality, political opinion, or membership in a particular social group. Asylum should generally be sought within one year of a person's last arrival into the United States. Asylum involves an application form and extensive documentation but there is no application fee.
- **Change or Extension of Status:** Afghan nationals who are in the United States in a temporary status such as an F-1 student or B-2 tourist status may [change](#) or [extend](#) their temporary status. This involves a form and an application fee.
- **Adjustment of Status:** Afghan nationals who are in the United States with an approved Special Immigrant Visa petition or who have a qualifying relationship with a family member or a U.S. employer for which a visa is available, may apply for adjustment of status (i.e., green card) inside the United States. This involves [a form](#) and an application fee.
- **Deferred Action:** Afghan nationals without any kind of status or option available may apply for prosecutorial discretion or protection called "deferred action." There is no application fee or form but once a person is granted deferred action, they may apply for work authorization.

## 3. What Benefits are available to Afghan nationals entering or inside the United States?

\*\*Many tens of thousands of Afghans paroled into the United States after the evacuation are currently eligible for only minimal federal support, but there is [advocacy to provide more](#).

The availability of benefits depends on the immigration status a person is under. Afghan SIV holders are eligible for [resettlement benefits](#). Afghan parolees may also be eligible for [certain benefits](#). Asylum seekers are not eligible for benefits while their applications are pending but once asylum is granted, asylees are eligible for [certain benefits](#).

*The goal of this document is to provide general information and is not meant to act as a substitute to legal advice from an attorney.*

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<sup>2</sup> [Immigration Advocates Network](#), [Human Rights First](#), and [PARS Equality Center](#) have links for pro bono legal services.