

GMS Flash Alert



Immigration Edition

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United States - USCIS to Allow Advance Parole Applications for International Travel

The U.S. Citizenship and Immigration Services (USCIS) will reportedly end its current practice of denying pending advance parole applications, Form I-131, *Application for Travel Document*, when applicants travel internationally. During an annual conference on November 16, 2018, USCIS Director L. Francis Cissna confirmed the policy change but did not provide a timeframe for when it will happen.¹

The USCIS has updated its website to provide that they will not deny pending advance parole ("AP") extensions for those individuals travelling on a valid AP document.² These individuals may travel on the AP document, provided the document is valid for the entire duration of their time abroad and their pending AP extension applications would not be considered abandoned.

WHY THIS MATTERS

As consular officers consider the Buy American and Hire American Executive Order, visa denials are on the rise, resulting in individuals being unable to return to the United States. Securing AP during the green card process allows green card applicants (1) to have alternative options for re-entry in the event of a denial of a visa benefit, (2) to bypass the visa stamping process, and (3) to avoid lengthy visa appointment wait times and possible administrative processing delays that can take several months.

Background

When filing Form I-485, *Application to Register Permanent Residence or to Adjust Status*, in the United States, green card applicants are permitted to file an application for advance parole to allow for international travel during the pendency of the green card application. Provided the applicant held a dual-intent visa, USCIS previously had a long-standing practice of approving advance parole applications even when the applicant traveled abroad.

Last year, USCIS began denying AP applications when applicants travelled abroad prior to the adjudication of their AP application. In doing so, USCIS has relied on a literal reading of the law as outlined in the Form I-131's instructions, rather than allowing greater freedom of movement for individuals who are about to become green card holders.

KPMG NOTE

This USCIS policy has had a detrimental impact on thousands of green card applicants who have had to remain in the United States for upwards of four months, or, bear the burden of refiling their AP applications and remaining in the United States until the AP is approved. Ending the practice of denying pending AP applications when an applicant travels abroad can provide significant relief for these individuals. However, the scope of this policy reversal and whether USCIS will permit dual intent visa holders to travel with pending AP applications remain undetermined. For now, at a minimum, it appears USCIS will end its practice of denying AP extension applications.

KPMG Law LLP in Canada will continue to monitor the situation, and will endeavor to keep GMS *Flash Alert* readers informed when USCIS releases official guidance.

FOOTNOTES:

1 See: <https://www.natlawreview.com/article/uscis-indicates-changes-to-advance-parole-policy> .

2 See: <https://www.uscis.gov/green-card/green-card-processes-and-procedures/travel-documents/emergency-travel> .

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Contact us

For additional information or assistance, please contact your local GMS or People Services professional* or one of the following professionals with the KPMG International member firm in Canada:



Chelsea Hsieh
Senior Manager/Senior Attorney, U.S. Immigration
KPMG Law LLP – Tax + Immigration, Canada
Tel. +1-416-943-7874
chelseahsieh@kpmg.ca



Mira Khalid
Associate/Attorney, U.S. Immigration
KPMG Law LLP – Tax + Immigration, Canada
Tel. +1-416-943-7830
mirakhalid@kpmglaw.ca

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