



## FACT SHEET

**AGENCY:** U.S. Department of Health and Human Services, Administration for Children and Families, Office of Refugee Resettlement

**SUBJECT:** Eligibility for ORR Benefits and Services – Cuban/Haitian Entrants

### Cuban/Haitian Entrants

#### Definition

Cuban and Haitian entrants are defined as:

- A. Any individual granted parole status by the Department of Homeland Security (DHS) as a Cuban/Haitian Entrant (Status Pending) or granted any other special status subsequently established under the immigration laws for nationals of Cuba or Haiti, regardless of the status of the individual at the time assistance or services are provided, and
- B. Any other national of Cuba or Haiti
  - 1. Who:(i) was paroled into the United States and has not acquired any other status under the INA;(ii) is the subject of exclusion or deportation proceedings under the Immigration and Nationality Act (INA); or (iii) has an application for asylum pending with DHS; and
  - 2. With respect to whom a final, non-appealable, and legally enforceable order of deportation or exclusion has not been entered [45 CFR § 401.2]. Cuban and Haitian Entrants, along with Cubans in certain other categories, are eligible to apply for adjustment of status after one year in the U.S.

#### Eligibility

Cuban Haitian Entrants are eligible for ORR benefits and services from the date they first enter into Cuban/Haitian Entrant status (which for Cuban Parolees will be the date of grant of parole, or first parole if more than one parole was granted).

#### **Acceptable Documents for Cuban and Haitian Entrants (per 45 CFR §401.2)**

- 1) Any individual granted parole status as a Cuban/Haitian Entrant (Status Pending) or granted any other special status<sup>1</sup> subsequently established under the immigration laws for nationals of Cuba or Haiti, regardless of the status of the individual at the time assistance or services are provided:

Documents/Codes	Comments
An I-94 Arrival/departure card with a stamp showing parole at any time as a "Cuban/Haitian Entrant (Status Pending)"	I-94 may refer to §212(d)(5).
CH6 adjustment code on the I-551	Even after a Cuban/Haitian Entrant (Status Pending) becomes a permanent resident, he/she technically retains the status Cuban/Haitian Entrant (Status Pending).
An I-94 Arrival/departure card with a stamp showing parole into the U.S. on or after April 21, 1980	I-94 may refer to §212(d)(5).

<sup>1</sup> ORR is not interpreting the phrase, "any other special status subsequently established under the immigration laws for nationals of Cuba or Haiti" to refer to lawful permanent residence obtained under the Nicaraguan Adjustment and Central American Relief Act (NACARA) or the Haitian Refugee Immigration Fairness Act (HRIFA). Although NACARA and HRIFA offer a special opportunity for nationals of Cuba and Haiti, the status conferred by these laws, lawful permanent residence, is not a "special status." Thus, if the person did not qualify as a Cuban and Haitian entrant, adjustment of status regardless of the legal basis for the adjustment does not make the person a Cuban and Haitian entrant.

A Cuban or Haitian passport with a §212(d)(5) stamp dated after October 10, 1980.	
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- 2) A national of Cuba or Haiti who was paroled into the United States and has not acquired any other status under the INA and with respect to whom a final, non-appealable, and legally enforceable order of removal, deportation or exclusion<sup>2</sup> has not been entered:

Documents/Codes	Comments
An I-94 Arrival/departure card showing parole into the United States	I-94 may refer to §212(d)(5), humanitarian or public interest parole. <sup>3</sup>
I-766 Employment Authorization Document with the code A04	
I-766 Employment Authorization Document with the code C11	

- 3) A national of Cuba or Haiti who is the subject of removal, deportation or exclusion proceedings<sup>4</sup> under the INA and with respect to whom a final, non-appealable, and legally enforceable order of removal, deportation or exclusion<sup>5</sup> has not been entered:

Documents/Codes	Comments
DHS Form I-221	Order to Show Cause and Notice of Hearing
DHS Form I-862	Notice to Appear
DHS Form I-220A	Order of Release on Recognizance
DHS Form I-122	Notice to Applicant Detained for a Hearing Before an Immigration Judge
DHS Form I-221S	Order to Show Cause, Notice of Hearing and Warrant for Arrest
Copy of DHS Form I-589 date stamped by the Executive Office	Application for Asylum and Withholding of Removal; Individual is

<sup>2</sup> The question of whether there is a final, non-appealable, legally enforceable order of removal, deportation or exclusion is essentially a legal determination that cannot simply be made by reviewing any of the listed documents. Moreover, it is not a decision that can be easily made by eligibility workers in the regular course of eligibility determinations. ORR suggests that eligibility workers require a written declaration, under penalty of perjury, that the individual has a status that makes him/her eligible for ORR programs and attempt to use other methods to uncover this information, such as calling the EOIR case status line at (800) 898-7180, submitting Form G-845 to the local DHS/USCIS office, asking the applicant for more information or, if participating, accessing the DHS SAVE system. Note that these methods may not be definitive. If an applicant appears eligible from the available information, the agency should provide benefits while conducting further investigation. If, after reviewing documents and attempting to determine whether there is a final, non-appealable, legally enforceable order of removal, deportation or exclusion, an eligibility worker remains uncertain about an applicant's eligibility, please call Thomas Pabst at 202.401.5398.

<sup>3</sup> As treatment of Cuban and Haitian entrants has developed, DHS officials, on occasion, may have used notations on the I-94s of Cuban and Haitian entrants that are not listed above. Eligibility workers may see various notations that convey parole. For example, eligibility workers, in the past, may have seen the notation, "EWI," which technically stands for "Entered Without Inspection" but was being used for individuals who were paroled. Please call Thomas Pabst at (202) 401-5398 if you encounter unusual notations or if you are uncertain of the relevance of a particular notation.

<sup>4</sup> Although the above documents show that proceedings have been initiated in a case, they cannot confirm that proceedings are continuing. In order to confirm that proceedings are continuing, eligibility workers will need to use other methods, such as calling the EOIR case status line at (800) 898-7180, submitting Form G-845 to the local USCIS office or, if participating, accessing the DHS SAVE system. If an eligibility worker cannot determine whether proceedings are ongoing, please call Thomas Pabst at 202.401.5398.

<sup>5</sup> The question of whether there is a final, non-appealable, legally enforceable order of removal, deportation or exclusion is essentially a legal determination that cannot simply be made by reviewing any of the listed documents. Moreover, it is not a decision that can be easily made by eligibility workers in the regular course of eligibility determinations. ORR suggests that eligibility workers require a written declaration, under penalty of perjury, that the individual has a status that makes him/her eligible for ORR programs and attempt to use other methods to uncover this information, such as calling the EOIR case status line at (800) 898-7180, submitting Form G-845 to the local USCIS office, asking the applicant for more information or, if participating, accessing the INS SAVE system. Note that these methods may not be definitive. If an applicant appears eligible from the available information, the agency should provide benefits while conducting further investigation. If, after reviewing documents and attempting to determine whether there is a final, non-appealable, legally enforceable order of removal, deportation or exclusion, an eligibility worker remains uncertain about an applicant's eligibility, please call Thomas Pabst at 202.401.5398.

for Immigration Review (EOIR)	subject of removal, deportation or exclusion proceedings.
Copy of DHS Form I-485 date stamped by EOIR	Application to Register Permanent Residence or to Adjust Status; Individual is subject of removal, exclusion or deportation proceedings.
EOIR-26	Notice of Appeal, date stamped by the Office of the Immigration Judge
I-766 Employment Authorization Document with the code C10	Application for suspension of deportation/cancellation of removal submitted
I-688B Employment Authorization Document with the provision of law 274a.12(c)(10) <sup>6</sup>	Application for suspension of deportation/cancellation of removal submitted
Other applications for relief that have been date stamped by EOIR	
Other documentation pertaining to an applicant's removal, exclusion or deportation proceedings	Example: a notice of a hearing date before an Immigration Judge

- 4) A national of Cuba or Haiti who has an application for asylum pending with DHS/USCIS and with respect to whom a final, non-appealable, and legally enforceable order of removal, deportation or exclusion<sup>7</sup> has not been entered.

Documents/Codes	Comments
DHS receipt for filing Form I-589	Application for Asylum and Withholding of Removal
I-766 Employment Authorization document with the code C08	
I-688B Employment Authorization Document with the provision of law 274a.12(c)(8) <sup>8</sup>	This is an older version of the employment authorization document but it is still in use.

<sup>6</sup> If an individual provides an I-688B Employment Authorization Document, which does not provide information about nationality, eligibility workers must request other documentation to confirm that the individual is a Cuban or Haitian national.

<sup>7</sup> The question of whether there is a final, non-appealable, legally enforceable order of removal, deportation or exclusion is essentially a legal determination that cannot simply be made by reviewing any of the listed documents. Moreover, it is not a decision that can be easily made by eligibility workers in the regular course of eligibility determinations. ORR suggests that eligibility workers require a written declaration, under penalty of perjury, that the individual has a status that makes him/her eligible for ORR programs and attempt to use other methods to uncover this information, such as calling the EOIR case status line at (800) 898-7180, submitting Form G-845 to the local INS office, asking the applicant for more information or, if participating, accessing the INS SAVE system. Note that these methods may not be definitive. If an applicant appears eligible from the available information, the agency should provide benefits while conducting further investigation. If, after reviewing documents and attempting to determine whether there is a final, non-appealable, legally enforceable order of removal, deportation or exclusion, an eligibility worker remains uncertain about an applicant's eligibility, please call Thomas Pabst at 202.401.5398.

<sup>8</sup> If an individual provides an I-688B Employment Authorization Document, which does not provide information about nationality, eligibility workers must request other documentation to confirm that the individual is a Cuban or Haitian national.