

5.5 Noncitizens with Temporary Protected Status

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Temporary Protected Status (TPS) provides temporary protection to nationals of countries experiencing dire and extraordinary conditions that make it too dangerous to return. *See supra* § 2.2D, Individuals with Temporary Lawful Status or Pending Application for Status. The countries designated for TPS as of August 16, 2017 are El Salvador, Haiti, Honduras, Nepal, Nicaragua, Somalia, Sudan, South Sudan, Syria, and Yemen. These noncitizens may have only temporary status, but like LPRs they may have come to this country many years ago and may have lived and worked in this country for many years. They can be removed because of a criminal conviction.

For technical immigration law reasons pertaining to their status, individuals with TPS will lose their status and face removal if convicted of:

- Any felony conviction or two or more misdemeanor convictions (whether the convictions are entered separately or consolidated for judgment). *See* INA § 244(c)(2)(B)(i), 8 U.S.C. § 1254a(c)(2)(B)(i).
- A “particularly serious crime.” *See* INA § 244(c)(2)(B)(ii), 8 U.S.C. § 1254a(c)(2)(B)(ii). There is no statutory definition of a particularly serious crime. However, in this context, an aggravated felony conviction is *per se* a conviction for a “particularly serious crime.” *See* INA § 208(b)(2)(B)(i), 8 U.S.C. § 1158(b)(2)(B)(i). For a table of the categories of offenses classified as aggravated felonies, see *supra* § 3.4A, Aggravated Felonies Generally. Other offenses may be considered particularly serious crimes in the discretion of the immigration judge. *See Matter of M-H-*, 26 I&N Dec. 46 (BIA 2012); *Matter of N-A-M-*, 24 I&N Dec. 336 (BIA 2007). The relevant factors include the nature and underlying circumstances of the conviction and the type of sentence imposed.
- Specific offenses that come within the crime-related grounds of inadmissibility: a crime involving moral turpitude (except for an offense that falls within the petty offense exception), a drug offense (except for a single offense of possession of 30 grams or less of marijuana), or evidence that supports a charge of drug trafficking. *See* INA § 244(c)(2)(A) (iii), 8 U.S.C. § 1254a (c)(2)(A)(iii).