

ARE YOU A NATIONAL OF VENEZUELA? YOU MAY BE ELIGIBLE FOR “DEFERRED ENFORCED DEPARTURE”

Disclaimer: This advisory has been created by The Legal Aid Society, Immigration Law Unit. This advisory is not legal advice, and does not substitute for the advice of an immigration expert.

If you are a Venezuelan national in the U.S. and you do not have permanent immigration status here, we expect that you may soon be able to apply for Deferred Enforced Departure, based on a directive issued by former President Trump on January 19, 2021. This is true whether you came on a visa or by just crossing the border without inspection, and even if you have a final order of removal (deportation).

What is Deferred Enforced Departure?

Deferred Enforced Departure (DED) is a status that allows you to live and work legally in the U.S. It is valid for 18 months at a time, allows you to apply for a work permit and a Social Security Number, and may be renewed for as long as Venezuela is designated a DED country.

When can I apply for DED?

The DED registration period for Venezuelan nationals is expected to be announced soon, once the government publishes a notice in the Federal Register. We will update this advisory as soon as the dates and other details are announced in that notice.

What documents will I need for my DED application?

We expect that the Federal Register notice will specify that, in order to apply for DED, you will need to file certain forms required by the U.S. Citizenship and Immigration Services (USCIS), pay a filing fee or seek a fee waiver, and include copies of documents proving three things: (1) that you are Venezuelan, (2) that you were residing in the U.S. on January 20, 2021, and (3) that you have been residing in the U.S. continuously since that date.

(1) Proof of Venezuelan Nationality

- Passport, birth certificate with photo identification, OR national identity document from Venezuela with your photo and/or fingerprint.

(2) Date of Entry

- Passport entry stamp, I-94 Arrival/Departure Record, OR other documents that prove your entry to the U.S. on or before January 20, 2021.

(3) Residence in U.S. from on or before January 20, 2021 to the present:

- Employment records (pay stubs, W-2 forms, IRS tax transcripts, state verification of filing state taxes, letters from your employer, statements from banks with whom you have done business).

- Rent receipts, utility bills (gas, electric, phone, etc.), receipts, or letters from companies showing dates you received service.
- School records (report cards, letters, etc.) from schools you or your children attended in the U.S., showing names of the schools and dates of attendance.
- Hospital or medical records for treatment you or your children received, showing name of the medical facility or physician and the dates of treatment or hospitalization.
- Attestations by churches, unions or other organizations, concerning your residence and identifying you by name.
- Other miscellaneous documents, such as birth certificates of your children born here, dated bank transactions and wire transfers, letters, U.S. Social Security card, driver's license, Selective Service card, contracts, mortgages, insurance policies, etc.

If I am from Venezuela, is DED guaranteed for me?

No. Even if you are from Venezuela, you would be ineligible for DED if:

1. you have voluntarily returned to Venezuela or to a country in which you last habitually resided outside the U.S.;
2. you have not continuously resided in the U.S. since January 20, 2021;
3. you are inadmissible or removable for security or terrorism-related grounds;
4. you have been convicted of any felony or 2 or more misdemeanors committed in the United States, or a “particularly serious crime” under the U.S. immigration laws;
 - a. If you have ever been arrested, cited or convicted of an offense, you should obtain a Certificate of Disposition for each matter, and you should speak to an immigration law expert before applying for DED.
5. you were already deported, excluded, or removed from the U.S. prior to January 20, 2021;
6. you are subject to extradition (meaning being sent from the U.S. to another country at that other country's request);
7. the U.S. government has determined that your presence here is not in the interest of the U.S., or presents a danger to public safety; or
8. the U.S. government thinks that it would harm U.S. foreign policy to allow you to remain in the U.S.

Which forms will I need to file?

To apply for DED, you will need to file some forms required by that will be detailed on the USCIS website (www.uscis.gov), once the registration period has been announced.

For updates, please call the Legal Aid Society's Immigration Helpline from 9:00am-5:00pm Monday through Friday at (844) 955-3425.