



Updates and Guidance for Hongkongers Under Deferred Enforced Departure

This advisory is for Hongkongers in the US subject to Deferred Enforced Departure (**DED**), and for attorneys and community partners assisting them. It summarizes recent policy changes and ongoing risks.

Clarifying What DED Does (and Does Not) Do

- ***What DED actually does:*** Deferred Enforced Departure is a presidential directive to defer the removal of a defined group of people for a set period of time. It is not an immigration status and is not something a person applies for. If you fall within the group covered by the January 2025 [Presidential Memorandum](#) on Hong Kong DED—most notably, that you have resided continuously in the United States since January 15, 2025, and were physically present in the United States on that date—you are protected automatically from removal, whether or not you file anything with USCIS.
- ***DED is separate from employment authorization and advance parole:*** Applying for an Employment Authorization Document (**EAD**) or for advance parole (**AP**) does not grant DED, and those applications have no effect on whether you are covered. Instead, USCIS uses those applications only to issue documents that reflect benefits you can receive because you are already protected. These distinctions matter, because we have encountered some lawyers, officials, and even judges who misunderstand DED, the EAD process, and the travel-permission process as one program. They are not. You remain eligible for DED even if you never apply for an EAD or AP, and even if an EAD or AP application is denied.
- ***EAD and AP can nonetheless be helpful to prove DED eligibility:*** With that said, an approved DED-based EAD or AP document can serve as strong *evidence* of your DED eligibility. It shows that USCIS examined your eligibility and found that you fall within the protected class, which can be helpful if you are detained or issued a Notice to Appear in removal proceedings. You should consult with a lawyer familiar with DED to determine whether applying for an EAD or AP is advisable for your circumstances.

Growing Enforcement Risks

- ***DED Hongkongers have been subjected to immigration court removal proceedings:*** We are seeing more Hongkongers receiving Notices to Appear (NTAs) placing them into removal proceedings in immigration court, despite valid DED. If you receive an NTA, contact a lawyer immediately who is familiar with DED to seek termination, dismissal, or delay based on current DED policy. We strongly urge against representing yourself in immigration court in these circumstances.
- ***Airport, border crossing, and other CBP checkpoint risk:*** In a [previous advisory](#) issued in March 2025, we advised caution when traveling through Customs and Border Protection (CBP) checkpoints, either with advance parole or at internal checkpoints such as travel

to certain US territories. Confusion persists among CBP officers about the validity and effect of DED, especially with immigration policy changing at a rapid pace. If you must travel, carry printed copies of the controlling DED Federal Register notices and your lawyer's contact details.

- ***Arrests and detention as USCIS interviews:*** There have been recent widespread reports of non-citizens attending USCIS-scheduled interviews only to be arrested by waiting ICE agents. As Hongkongers under DED pursue more stable, long-term visa and immigration options, many will need to attend USCIS interviews for asylum, marriage-based adjustment, and other applications. If you must attend an interview, be aware of the risk. Have a lawyer and/or a trusted person in lawful status accompany you, and retain a lawyer in advance who can act quickly if needed.

Other Developments Relevant to DED Beneficiaries

- ***New \$1,000 parole fee collected at entry:*** DHS [now charges \\$1,000](#) each time a person is paroled into the US. If you have DED-based advance parole and use it to leave the United States, you will be required to pay this fee at the port of entry when you return. In the instances reported to us, Hongkongers were taken to a secondary room with a credit card machine to pay the fee before being granted entry.
- ***New \$100 annual asylum fee (currently paused):*** Earlier this year, [Congress created a \\$100 fee for each year](#) an asylum application is pending, which must also be submitted with your initial application. On October 30, 2025, a federal judge [temporarily paused](#) the government's implementation. For Hongkongers with a pending asylum application or considering applying, treat this as a live issue that may restart, and watch for official notices. If the fee is reinstituted, ensure you pay on time to avoid USCIS treating your application as abandoned.
- ***New \$100,000 H-1B fee:*** The administration has announced a [new \\$100,000 H-1B petition fee](#), paid by the employer, which would make the H-1B program for foreign workers effectively inaccessible for most employers and therefore a far less viable option for most DED Hongkongers seeking long-term status through skilled employment. However, this policy is still in flux. Certain affected groups have filed litigation and courts may delay or block its implementation for the upcoming 2026 lottery. In addition, the administration has left itself flexibility to create exemptions or reduced-fee categories for certain industries or types of workers.
- ***Ending of Automatic EAD Extensions does NOT affect DED-based EADs:*** On October 29, [DHS announced](#) that it would end the policy allowing certain noncitizens with pending EAD renewal applications to receive an automatic extension of work authorization while their renewals were pending. Some Hongkongers have asked whether this affects DED-based EADs. It does not. DED-based EADs were never eligible for automatic extensions pending renewal, so the DHS announcement has no impact on their validity or on how they are treated.

Plan Ahead

- ***The approaching end of DED:*** DED for Hongkongers is currently set to expire on February 5, 2027. Given the political environment, another extension is significantly less likely than in prior years, and there is a risk the administration could terminate the program early. We are actively engaging with the administration and Congress on the possibility of an extension, as well as more durable policy solutions. These efforts are important but success is far from guaranteed. All Hongkongers under DED should plan for protections to end in February 2027. Because many immigration pathways take a year or more to prepare and adjudicate, now is the time to begin evaluating options.
- ***Exploring longer-term pathways:*** Every DED beneficiary should assess whether they may qualify for a more permanent route. Depending on your circumstances, potential pathways may include asylum or related protection claims, family-based adjustment, student status transitions, or certain employment-based options. Each pathway has its own timelines, evidence requirements, and risks. It is essential to be alert to fraud, including the marriage-fraud schemes that ICE and USCIS have publicly said they are targeting.
- ***Seek legal advice:*** With the increase in NTAs, the new parole fee, and the real risk of detention at interviews or during travel, having counsel who understands both DED and the current enforcement environment is one of the most effective ways to protect yourself. If you receive an NTA, plan to travel on advance parole, or have an upcoming USCIS interview, contact a lawyer immediately to review risks, prepare documentation, and plan for emergencies.

We will continue pushing for clarity on DED's future and will share updates as soon as they are available. In the meantime, careful planning, timely filings, and qualified legal guidance are essential.

For inquiries: <https://www.bickettlaw.com/contact-8>