

U.S. Department of Justice

Executive Office for Immigration Review

Board of Immigration Appeals

Chairman

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BIA 04-03

MEMORANDUM TO: Board Legal Staff

FROM: Lori L. Scialabba
Chairman

SUBJECT: Administrative Closure of cases involving TPS or DED countries

The purpose of this memorandum is to provide updated guidance regarding administrative closure of pending appeals at the Board. In particular, appeals which involve aliens who are potentially eligible for Temporary Protected Status (TPS) or Deferred Enforced Departure (DED).

As you are aware, administrative closure is a means in which to temporarily remove a case from either the Immigration Judge's calendar or from the Board's docket. Administrative closure is a case management tool for the Board's administrative convenience and is not meant to provide benefits to either party. The Board has stated that a case may not be administratively closed if opposed by either of the parties. *Matter of Gutierrez*, 22 I&N Dec. 479 (BIA 1996). Moreover, the Board does not, with a few exceptions, administratively close expedited or detained cases, motions to reopen or reconsider or untimely appeals.

In the past, the Board has approved the administrative closure of groups of cases involving nationals who appear eligible for Temporary Protected Status (TPS) or Deferred Enforced Departure (DED). At this time, however, I have concluded that administrative closure of groups of cases is not warranted. Rather, the issue of administrative closure of a case appeal pending at the Board will be made on a case by case basis after evaluating whether:

- alien is eligible to apply for TPS or DED
- a party has affirmatively sought such closure
- no objection from the opposing party has been received

In addition, a listing of countries designated for TPS or DED may be found on the BIA Webpage and the Virtual Law Library.