

Disclaimer

The purpose of these materials is to help TWIC applicants understand how to respond to TSA's initial determinations of ineligibility. No legal advice is being given and no attorney-client relationship is created by the use of these materials. An attorney should be consulted for more detailed information in individual cases. The National Employment Law Project (NELP) shall not be liable for the information provided herein, or for the results obtained from the use of such information.

How to Respond to a TSA Initial Determination That You May Not be Eligible for a TWIC Card: Overview of TWIC Waiver and Appeal Process

If you received a letter from TSA with an initial determination on your TWIC application, you will need to file either a waiver or an appeal in order to obtain your TWIC card. You have 60 days from the date on the letter to respond to TSA. If you need more time, you can request a 60-day extension from TSA. You must write to TSA to request the extension.

You need an appeal if:

- (1) You were not convicted of the offense(s) listed in the letter from TSA because the charge(s) was dismissed, nolle prossed, or you were found not guilty; or
- (2) You were convicted of a misdemeanor(s) only; or
- (3) You were convicted of simple drug possession; or
- (4) The charge is an interim disqualifying felony as listed on the TSA website (http://www.tsa.gov/what_we_do/layers/twic/twic_faqs.shtm#Crimes) and the conviction date is over 7 years ago AND you were released from incarceration over 5 years ago.

You need a waiver if:

- (1) You were convicted of an interim disqualifying felony within the past 7 years OR you were released from incarceration within the past 5 years; or
- (2) You were convicted of a permanently disqualifying felony at any time.

Overview of the TWIC Appeal Process

TWIC applicants are able to appeal initial denials in the following circumstances:

- (1) You were not convicted of the offense, the charges were dismissed, nolle prossed, or you were found not guilty;
- (2) You were convicted of misdemeanors only; or
- (3) You were convicted of simple drug possession; or
- (4) The charge is an interim disqualifying felony and the conviction date is over 7 years ago AND you were released from incarceration over 5 years ago.

If the charges listed in the letter from TSA were dismissed, you were convicted of simple drug possession or a misdemeanor only, or the charge is one of the interim disqualifying felonies and the conviction date was over 7 years ago AND you were released from incarceration over 5 years ago, then you should file an appeal with TSA.

To file an appeal, you will need to submit official documents to TSA verifying that the charge was dismissed, you were found not guilty, you were convicted of drug possession only, or you were convicted of a misdemeanor only. These documents must come from the court, the district attorney, or the police department. A letter from your lawyer is not sufficient.

If you were convicted of an interim disqualifying felony but the conviction date was over seven years ago AND you were released from incarceration over five years ago, you will need to provide TSA with court documents verifying the conviction date AND prison or jail documents verifying your release from incarceration date.

Please note: For drug offenses, **only** simple possession that is non-disqualifying. Possession with intent to sell or distribute is considered an interim disqualifying felony.

Once you have gathered the necessary documents, be sure to note on the “TSA TWIC REQUEST COVER SHEET” the reason you think the initial determination was incorrect and why you are filing the appeal. Include the official documents, and mail the entire packet to TSA at the address listed on the cover sheet. **Be sure to make a copy of all the documents you send to TSA and request a Delivery Confirmation Receipt from the U.S. Postal Service.** TSA has 60 days to review your appeal and will send you a letter to inform you whether your appeal has been granted or denied.

Please note: Be sure to check the date of the letter you received from TSA. You have 60 days from the date on the letter to respond to TSA. If you need more time, you can request a 60-day extension from TSA. You must write to TSA to request the extension.

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Overview of the TWIC Waiver Process

TSA grants most of the waiver requests it receives, so you should feel confident about seeking a TWIC waiver. Enclosed you will find information that NELP has developed to help you prepare your waiver application on your own. This packet includes information about the waiver process and sample materials to help you prepare your waiver application.

You will need to gather and prepare the following materials for the waiver application:

- (1) Your personal statement. This statement must include the circumstances that led to the conviction(s), the length of time since the conviction(s), and a description of all of your rehabilitative activities, including your employment history at the port. This is your opportunity to tell TSA in your own words what was going on then and what this job means to you now. Be sure to explain that you are not a security threat and that you need this job. An outline is provided to help you prepare the personal statement.
- (2) Verification of release from incarceration and compliance with probation/parole. If you were incarcerated, you must provide verification of your release from incarceration. In addition, you will need to provide a letter from your probation or parole officer verifying your compliance with the terms of your supervision. If you cannot get a letter from the probation/parole officer you should submit documentation verifying release from supervision.
- (3) Letters of support. Sample letters are provided that will help your probation/parole officer, employer, and family, friends and other community members write the letters of support you need to submit with your waiver application. Letters of support from your probation/parole officer and employer are the most important. If you cannot get a letter from a supervisor, you should submit a letter(s) from co-workers who can describe your work. In addition to your probation/parole officer and employer letters, we suggest submitting at least two additional letters from community leaders, friends, or family members who have known you a long time and can explain that you do not pose a security risk at the port. If you participate in NA/AA, a letter from your sponsor is particularly helpful.
- (4) Other information. If you participated in any substance abuse counseling, anger management classes, or other trainings or courses, you may wish to include copies of your certificates.

Once you have gathered all of the signed letters of support and other documents, include the “TSA TWIC REQUEST COVER SHEET” received from TSA along with the personal statement and mail the entire packet to TSA at the address listed on the cover sheet. **Be sure to make a copy of all the documents you send to TSA and request a Delivery Confirmation Receipt from the U.S. Postal Service.** TSA has 60 days to review your waiver application and will send you a letter to inform you whether your waiver has been approved or denied.

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Outline of Personal Statement for TWIC Waiver Application – this is the minimum amount of information, please add as much detail as possible.

Dear TSA Waiver Review Board:

My name is [name]. My home address is []. My phone number is []. I was born on [birth date] in [place of birth]. I am writing to respectfully request a waiver of the offenses listed in the letter I received from TSA, [list offenses].

The circumstances surrounding these offenses [this offense] are as follows. I was [how old?]. [Explain here what happened, how/why you were arrested.]

I was sentenced to [how many months/years incarceration/probation?] and was released in [month, year].

Since my release from incarceration/probation, I have made every effort to turn my life around and stay on the right track. [explain what you've done, your work at the port, work history, your participation in the community, your general rehabilitation, etc.]

I regret the mistakes I made. I am a different person now, and I can assure you that I present no security risk by working at the port, and that I need this job to support myself and my family.

Thank you for considering my waiver request.

Sincerely,

[name]

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Sample Probation Officer Letter in Support of Worker's TWIC Waiver Application

[Date]

Re: TWIC Waiver Application of [First and Last Name]

To Whom It May Concern:

This letter is regarding [Applicant's name]'s request to obtain his Transportation Worker Identification Credential (TWIC) waiver.

I am [give name and relationship to Applicant] and I have supervised [Applicant] for [x years/x months, etc.] for [x offense]. [Applicant] was released from incarceration on [date of release, if Applicant was incarcerated] and is currently completing a [length] term of [probation/parole/federal supervision], which began on [date] and is scheduled to expire on [date]. He/she is in compliance with the terms of his/her probation, including [reporting on time, passing required drug tests, maintaining stable employment/housing, etc.]

[If applicable, include the following line.] It appears he/she takes responsibility for his/her past actions and has demonstrated his/her intention to maintain a law-abiding lifestyle. [If possible, please include the following line.] To my knowledge, [Applicant] does not appear to pose any kind of security risk.

I can be reached at [phone number] with any questions.

Sincerely,

[Name]

[Title]

[Address]

[Phone Number]

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Sample Employer Letter in Support of TWIC Waiver Application

[Date]

Re: TWIC Waiver Application of [Employee First and Last Name]

To Whom It May Concern:

I am a [job title] with [company name]. I have supervised [employee] since [start date] in his position as [employee's position] where he [brief description of job duties]. During the time I have known [employee], he has been a model employee. He is hard working, honest, respectful, courteous, and well-liked by his co-workers and management. He has never been subject to any discipline or reprimands by the company, nor have any complaints been made about him by the customers he comes into contact with every day. We do not believe that he poses any kind of security risk.

[Employee] is the kind of reliable and motivated employee whom we value very much at [company name]. Therefore, we respectfully ask that TSA withdraw its initial denial and grant him a TWIC so that he can continue working with our company.

Sincerely,

[Name]

[Address]

[Phone Number]

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Sample Family, Friend, or Community Member Letter in Support of TWIC Waiver Application

[Date]

Re: TWIC Waiver Application of [First and Last Name]

To Whom It May Concern:

I am [give name and relationship to TWIC Applicant] and I have known [Applicant] for [many years; since he or she was a child, etc.]

[Describe the kind of person you know the Applicant to be, for example: He is hard working, honest, respectful, courteous, and well-liked.] [If applicable, acknowledge the mistakes that Applicant has made in the past and how he or she has turned their life around.]

[TWIC Applicant] does not pose a threat to the security of the port. I respectfully request that TSA grant him a TWIC so that he can continue to work at the port [and support his family].

Sincerely,

[Name]

[Address]

[Phone Number]

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