



AMERICAN
IMMIGRATION
LAWYERS
ASSOCIATION

March 7, 2016

Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Policy and Strategy
Chief, Regulatory Coordination Division
20 Massachusetts Avenue, NW
Washington, DC 20529-2140

Submitted via: www.regulations.gov
Docket ID No. USCIS- 2007-0045

**Re: OMB Control Number 1615-0013
USCIS 60-Day Notice and Request for Comments: Application for Travel
Document, Form I-131; Revision of a Currently Approved Collection**

To Whom It May Concern:

The American Immigration Lawyers Association (AILA) submits the following comments in response to the above-referenced 60-Day Notice and request for comments on the proposed revisions to the Application for Travel Document, Form I-131 and the accompanying instructions, published in the Federal Register on January 7, 2016.¹

AILA is a voluntary bar association of more than 14,000 attorneys and law professors practicing, researching, and teaching in the field of immigration and nationality law. Our mission includes the advancement of the law pertaining to immigration and nationality and the facilitation of justice in the field. AILA members regularly advise and represent businesses, U.S. citizens, lawful permanent residents, and foreign nationals regarding the application and interpretation of U.S. immigration laws. We appreciate the opportunity to comment on this notice and believe that our members' collective expertise and experience makes us particularly well-qualified to offer views that will benefit the public and the government.

General Comments

U Status Holders and Conditional Grantees

The proposed instructions eliminate reference to U nonimmigrants as qualifying for advance parole. While in practice, almost all U nonimmigrants return from travel abroad with a U visa, there are instances where U nonimmigrants have obtained advance parole in emergency situations. Advance parole should remain an option for U nonimmigrants to facilitate emergency travel and expeditious return to the U.S. given the inherent delays in the visa application process.

¹ 81 Fed. Reg. 790 (Jan. 7, 2016).

We also urge USCIS to permit U applicants who are placed on the waiting list (“conditional grantees”) to travel on advance parole. Given the number of crime victims who are eligible for U status, the annual cap of 10,000 U visas has resulted in a backlog of several years. Without a legislative fix, this situation is likely to remain unaltered. USCIS has recognized the importance of providing relief to crime victims who have assisted law enforcement by granting them deferred action and work authorization. It is essential that USCIS also provide a means for these individuals to travel.

Under 8 CFR §214.14(d)(2), “USCIS will grant deferred action *or parole* to U-1 petitioners and qualifying family members while the U-1 petitioners are on the waiting list” (emphasis included). Conditional grantees who are on the waiting list and residing in the U.S. are granted deferred action and employment authorization while they await visa availability, while those residing abroad receive no tangible benefit from the conditional approval. The failure to implement a policy and procedure for granting parole to U conditional grantees outside the U.S. results in lengthy separation of family members who desperately need support and stability in the aftermath of a violent crime. In addition, conditional grantees in the U.S. awaiting final U approval are in need of a mechanism to travel abroad.

The revision of the I-131 form and instructions presents an opportunity for USCIS to address this deficiency. In addition, we ask USCIS to note that U conditional grantees requesting parole are not required to submit an I-134 affidavit of support given the inapplicability of the public charge ground of inadmissibility to U status holders. In addition, consistent with 8 CFR §103.7(c)(3)(xviii), U conditional grantees and U status holders requesting parole should be eligible for a fee waiver.

Filipino WWII Veterans Parole Program (FWVP)

We applaud DHS for taking steps to implement the Filipino WWII Veterans Parole Program (FWVP), as announced in November 2014 by President Obama and Secretary Johnson as part of the executive actions on immigration and as outlined in the White House report, [Modernizing and Streamlining Our Legal Immigration System for the 21st Century](#).² We commend the agency for implementing this important program, which will hopefully reunite many veterans and/or their widows with their loved ones who have been waiting years for a green card.

Separate Forms for Various Form I-131 Application Types

Form I-131 encompasses six different benefit types (*See* Part 2, Items 1.a. to 1.f.), making this form cumbersome and confusing. Item 1.f. in the proposed instructions includes three additional parole programs with each program requiring different fees. Moreover, each benefit type requires different initial evidence.

USCIS should consider separate forms tailored to each benefit type. The current form and the proposed form request information that is not applicable for certain benefits. Depending on the selection made in Part 2 (Application Type), many of the remaining questions do not apply.

² White House Report on Modernizing and Streamlining the Immigration System, available on www.AILA.org at Doc. No. [15071508](#) (July 15, 2015).

Additionally, some information that should be requested is missing from the proposed I-131 (e.g., the name and biographical information of the beneficiary in certain types of requests).

Proposed Changes to Form I-131

Page 1: Part 1. Information About You

USCIS should add a section for “Mailing Address” in addition to “Physical Address” to permit notices and documents to be sent to the applicant’s mailing address.

Page 1: Part 1. Information About You, Item 6

It is not clear whether “Class of Admission” pertains to the applicant’s initial Class of Admission or his/her current nonimmigrant visa status (if any). If this item is asking for the applicant’s Class of Admission at time of most recent admission to the U.S. then language to that effect should be added (e.g., “Class of Admission at time of most recent admission to the United States”). If, this item is requesting the applicant’s current nonimmigrant visa status, then that information should be specifically requested.

Page 2: Part 2. Application Type, Question 1

This section should include an option for parole in place for the family members of active duty military members and/or veterans pursuant to the November 15, 2013 USCIS policy memorandum.³ For instance, a new Item “1.g.” should be added with the following language: “I am a member or a veteran of the U.S. Armed Forces and I am applying for Parole-in-Place for my a. parent; b. spouse; c; child.” Accordingly, the section for “Processing Information” should indicate where the military service member will be submitting the request for parole in place and there should be a specific section on the form for parole in place applicants, as there is now for applicants applying for a Refugee Travel Document, Advance Parole, etc.

The accompanying instructions to Form I-131 should contain a section describing the purpose of military parole in place, who may qualify, and the evidence required. The instructions should make it clear that parole in place does not permit travel but will allow the family member with an approved parole in place to submit an application for adjustment of status.

Page 2: Part 2. Application Type, Item 1.f.

The instructions to Form I-131 state that Item 1.f. should be checked if an individual is applying for benefits under the Cuban Family Reunification Parole (CFRP) Program, the Haitian Family Reunification Parole (HFRP) Program, or the Filipino WWII Veterans Parole (FWVP) Program. The draft instructions on page 7 state that an individual applying under one of these programs should check box 1.f. in Part 2 and type or print the appropriate parole program name at the top of the Form I-131. Instead, USCIS should add three sub-choices under Box 1.f. listing the specific parole programs so that the individual need not type or print the type of parole program at the top of the form. This would make the form less confusing, and, with barcode technology,

³ PM-602-0091, “Parole of Spouses, Children and Parents of Active Duty members of the U.S. Armed Forces, the Selected Reserve of the Ready Reserve, and Former Members of the U.S. Armed Forces or Selected Reserve of the Ready Reserve and the Effect of Parole on Inadmissibility under Immigration and nationality Act Sec. 212(a)(6)(A)(i)” available on www.AILA.org Doc. No. [13111545](https://www.aila.org/files/2013/11/13111545) (Nov. 15, 2013).

allow USCIS to capture the selection that might not otherwise be captured if it is typed or printed.

The instructions are somewhat ambiguous as to whether the petitioner or beneficiary should be listed as the applicant. The instructions state that Box 1.f. should be checked if applying under any of these programs. Box 1.f. states: "I am applying for an Advance Parole Document for a person who is outside the United States." This seems to indicate that it would be the I-130 petitioner who is applying on behalf of the beneficiary. However, the instructions also indicate that, if there are derivative beneficiaries as well as a primary beneficiary seeking benefits under the three parole programs, a separate I-131 with fee must be submitted for each case. Yet there is no place on the form to designate the name of the beneficiary for whom advance parole is being sought. Again, the instructions should clarify whose name should be listed in Part 1 (Information About You) and who should sign the form. If it is the beneficiary, then the instructions should clearly state that and there needs to be a space on the form to designate which beneficiary the Form I-131 is being filed for.

Page 2: Part 3, Processing Information, Items 1 and 2

On the advance parole document issued to the applicant (Form I-512L, Authorization for Parole), it is not always clear what dates the applicant is allowed to travel, particularly those who apply for advance parole based on a grant of DACA. The advance parole document should be clearer, and the form and instructions should specify how to interpret the advance parole document, if approved.

Page 2: Part 3, Processing Information, Item 3.b.

This item should request either the name of the DHS office or the EOIR office (in the event the person answers yes to Item 3.a. and is in removal proceedings, etc.).

Page 3: Part 3, Processing Information, Where do you want this travel document sent?

It appears that this section conflicts with Form G-28 which allows that applicant to specify that he/she wants the travel document sent to his or her attorney of record. It is unclear where a travel document would be sent in a situation where the applicant signs a Form G-28 and checks the box requesting that any travel documents be sent to the attorney of record and also selects a different choice at the top of Page 3 (Items #5-7). If the I-131 overrides the G-28, an additional choice should be listed so that the applicant can choose to have the travel document mailed to the attorney of record or the preparer at the address listed in Part 9 under "Preparer's Mailing Address." This would be extremely helpful where an applicant files Form I-131 requesting a re-entry permit and then departs the U.S. after biometrics collection. The applicant may prefer to have the travel document mailed to his or her attorney of record rather than his home address, or to an Embassy or DHS office overseas.

Proposed Changes to Form I-131 Instructions

General Comment

The instructions should clearly specify how far in advance a person may apply in the event they are applying to renew a travel document.

Page 6, Part 4. Advance Parole Document, Section 4.a.

The proposed instructions state that “you or someone else ... outside the United States can apply for Advance Parole.” Section 4.a.(2) indicates that an individual in the U.S. may file the application on that person’s behalf. In such a case, the person in the U.S. must complete Section 1 with his or her information. There is no clear guidance as to where to provide the information on the person for whom parole is requested.

Page 7, Part 4. Section 4.b., (3) FWVP Program (a)

Filipino veterans or widows living in the U.S. *and* the Philippines should be eligible to participate in the FWVP Program. USCIS should amend the instructions to state:

You may apply for parole on behalf of your family members under this program [FWVP] if:

- (a) You are living in the United States **or the Philippines** and are either a Filipino veteran who fought under the American flag during World War II, as defined by section 405 of IMMACT 90, as amended, or the surviving spouse of such individual.

Some Filipino veterans and surviving spouses have left the U.S. temporarily because of illness or lack of family support. Such individuals should be allowed to apply for parole to permit them to return to the U.S.

Page 7, Part 4. Section 4.b., (3) FWVP Program (b)

The instructions should clarify that an I-130 petition filed by either the Filipino veteran or the surviving spouse of a Filipino veteran is acceptable.

Page 12, Part 5. Expedite Request Instructions

The proposed instructions indicate that a person seeking expedited processing should type or print the word EXPEDITE in the top right corner of the application in black ink. It is recommended that an email address and fax number also be provided, yet there is no space to provide that information. Instead, since expedites are fairly routine with this type of application, there should be a separate section on the form asking whether expedited processing is requested. A separate page (i.e., Page 6) could be added to the form and the applicant could be instructed to explain why they qualify.

Conclusion

AILA appreciates the opportunity comment on the proposed changes and we look forward to a continuing dialogue with USCIS on these issues.

Sincerely,

THE AMERICAN IMMIGRATION LAWYERS ASSOCIATION