

December 8, 2014

USCIS, Office of Policy and Strategy
Regulatory Coordination Division
Attn: Laura Dawkins
Chief, Regulatory Coordination Division
20 Massachusetts Avenue, NW
Washington, DC 20529-2140

Dear Ms. Dawkins:

RE: Agency Information Collection Activities: Petition for Qualifying Family Member of a U-1 Nonimmigrant, Form I-929; Extension, Without Change, of a Currently Approved Collection

On behalf of Family Equality Council, please accept these comments on the United States Citizenship and Immigration Service's (USCIS) Agency Information Collection Activities regarding Petition for Qualifying Family Member of a U-1 Nonimmigrant, Form I-929; Extension, Without Change, of a Currently Approved Collection. Family Equality Council is a national organization working to ensure full social and legal equality for lesbian, gay, bisexual, transgender, and queer (LGBTQ) parents and their children by providing direct support, educating the public, and securing inclusion in legislation, policies, and practices impacting families. On behalf of the more than three million LGBTQ parents and their six million children across the United States,¹ Family Equality Council would like to thank the Director and the Service for their work to provide inclusive and comprehensive services to the LGBTQ and immigrant communities within the United States.

Husband, and Wife Designations

Form I-929 permits U-1 Visa holders to seek permanent residency or apply for immigrant visas on behalf of certain family members.² U-1 Visas are available to nonimmigrants who have been the victim of certain crimes in the United States, and are assisting or have assisted in the investigation or prosecution of those crimes by law enforcement.³ USCIS permits these visa holders to petition for an immigrant visa on behalf of their spouse, children, and/or parents.

This form requires applicant U-1 visa holders to provide familial information about the qualifying family member for whom they are requesting a visa. Part 3 of the form specifically solicits information about a qualifying family member's parents using fields labeled "Name of Mother" and "Name of Father."⁴

The intent of this form is to identify the parents of the qualifying family member, so as to facilitate USCIS properly identifying the family member and determining his or her eligibility to be admitted to the United States. Using gendered terms to gather information about the qualifying family member's parents when the form's intent is to effectively ascertain his or her identity and familial history serves to confuse applicants and possibly delay or deny processing of this form where the family member has two mothers or two fathers. Using the gendered terms "Name of Mother" and "Name of Father" adds nothing to the information gathered by the form that would not be ascertained by using the non-gendered term "Name of Parent."

¹ Movement Advancement Project, Family Equality Council and Center for American Progress, "All Children Matter: How Legal and Social Inequalities Hurt LGBT Families," October 2011, *Issue Brief: Obstacles and Opportunities: Ensuring Health and Wellness for LGBT Families*.

² Form I-929, Petition for Qualifying Family Member of a U-1 Nonimmigrant (available at: <http://www.uscis.gov/sites/default/files/files/form/i-929.pdf>).

³ 8 U.S.C. § 1184(p).

⁴ Form I-929 at Part 3.

Recommendations

The “Name of Mother” and “Name of Father” fields on Form I-929 can easily be changed to read “Name of Parent 1” and “Name of Parent 2” without undermining or compromising the information gained from this form. In fact, amending these fields as recommended would allow completers to complete the form more fully and truthfully, and more accurately match any previous records with which Form I-929 is being compared.

Neither the statute governing applications for U-1 Visas⁵ nor the regulations defining “qualifying family member”⁶ use gendered terms to describe such an individual’s parents. The Director of United States Citizenship and Immigration Services, through power granted him by the Secretary of State, has the authority to change this form as established by 8 U.S.C. § 1104.⁷ Thus, the change we recommend as to usage of the terms “Name of Mother” and “Name of Father” is solely one of internal agency policy.

We recommend that the United States Citizenship and Immigration Service amend Part 3 of Form I-929 to replace the field designations reading “Name of Mother” and “Name of Father” with language reading “Name of Parent 1” and “Name of Parent 2” respectively.

The federal government’s thousands of programs, services, and benefits are intended to be accessible to all who qualify, and the language we use to determine eligibility for those benefits carries significant tangible and symbolic consequences for LGBTQ-headed families. Changing Form I-929 to employ gender-neutral parental terms will be a cost-neutral change that would more accurately reflect the varied composition of today’s families. Updating this form to be inclusive of families with two parents of the same-sex will also increase governmental efficiency by alleviating the needless confusion, delays, and denials caused by current outdated forms. The exclusionary effect of the gendered statutory language struck down by the Supreme Court’s ruling in *U.S. v. Windsor*⁸ shows how gendered spousal fields and terms like those seen here exclude millions of people from benefits, services, and programs; updating this form and forms like it to be inclusive of all families will ensure these benefits are available and awarded appropriately to all who are eligible for them.

We respectfully recommend that the United States Citizenship and Immigration Services amend the gendered parental language on Form I-929 to be inclusive of LGBTQ parents and their families. We commend USCIS and the Department of Homeland Security for its work, and look forward to the final draft of this form.

We are happy to provide your office with any additional information or clarification that you might need. Please contact Michael Porcello (mporcello@familyequality.org, 202-607-2140) in our Washington, D.C. office with any questions.

Sincerely,



Gabriel Blau
Executive Director
Family Equality Council

⁵ 8 U.S.C. § 1184(p).

⁶ 8 C.F.R. § 214.14(a)(10).

⁷ 8 U.S.C. § 1104 (a), (d).

⁸ *United States v. Windsor*, 570 U.S. ____ (2013).