

**From:** Kristen Jackson [mailto:kjackson@publiccounsel.org]  
**Sent:** Monday, May 11, 2015 1:09 AM  
**To:** USCISFRComment@uscis.dhs.gov  
**Subject:** OMB Control Number No. 1615-0116 DHS/USCIS USCIS-2010-0008

Please see the attached comments. ~K

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## Via Electronic Mail

May 10, 2015

Chief, Regulatory Coordination Division  
Office of Policy and Strategy  
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Department of Homeland Security  
20 Massachusetts Avenue, NW  
Washington, DC 20529-2140

**RE: Comments on Form I-912 Request for an Individual Fee Waiver and  
Instructions to Form I-912  
Docket ID USCIS-2010-0008  
OMB Control No. 1615-0116**

To Whom It May Concern:

I am writing to submit Public Counsel's comments on U.S. Citizenship & Immigration Services' proposed Form I-912 and its accompanying instructions as they relate to children's cases.

Our comments focus primarily on the I-912 and instructions' treatment of Special Immigrant Juveniles (SIJs)—that is, children who are under the jurisdiction of a state or juvenile court and who cannot reunify with one or both parents due to abuse, neglect, or abandonment. *See* 8 U.S.C. § 1101(a)(27)(J). Public Counsel has extensive experience handling Special Immigrant Juvenile Status (SIJS) cases. SIJs—by definition, vulnerable children—are very likely to need the fees for their I-485s, I-765s, and I-601s waived in order to access the immigration relief Congress intended for them.

In addition to the SIJS-specific comments, we also include a more general comment designed to reduce confusion. With this letter, we enclose mark-ups of the Form I-912 and its instructions; the proposed changes are numbered, and they are explained below.

## **Clarify When SIJS-Eligible Children Can Qualify for an I-485 Fee Waiver**

Currently, the instructions note that a child seeking a fee waiver should indicate her "current immigration status." Part 3, Item Number 1 of the I-912 presents one of the options as "Special Immigrant Juvenile." We think this may cause confusion, as some applicants may believe that they can seek an SIJS-based I-485

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fee waiver only after USCIS has approved their SIJS-based I-360s and thus granted them SIJS. To avoid this confusion, we suggest that the instructions be edited to make clear that a child with an approved, pending, or concurrently-filed SIJS-based I-360 can be a “Special Immigrant Juvenile” for purposes of the I-912. *See* Edit 1, Instructions Page 3.

### **Simplify Part 6 and Its Instructions for SIJs**

We appreciate that USCIS recognizes that SIJs typically will not have the traditional evidence (tax returns, for example) to establish that their income is below the Federal Poverty Guidelines, and that USCIS has listed other forms of evidence to qualify these children for fee waivers. That said, we are concerned that children will be confused about documenting their household size and related income.

In Part 6, Item Number 1, a child is asked whether she provides the primary financial support for her household. Because most SIJs are minor, unemployed children, their answer to this question will almost certainly be “No.” But with a “No,” a child is asked to add both her name and the name of her “head of household” to the table at Part 6.

This presents a real dilemma for SIJs. In many cases, these children live in state or locally-funded foster care placements or group homes. They have no “heads of household” that provide direct financial support for their care and well-being. Instead, the government itself is paying for their care, through payments to organizations or individuals designated by the state or juvenile court. As a result, most SIJs are unable to identify a particular “head of household,” what amount of income that entity might have, or who else forms part of that household. Without this information, they may believe they cannot qualify for a fee waiver.

To prevent this confusion, we suggest that the I-912 and its instructions be edited to reflect that if the applicant answers “No” to Part 6, Item Number 1 and is applying as an SIJ, she should simply list herself in the table at Part 6 and list her “Total Household Size” as 1. *See* Edit 2, Form I-912 Page 3 & Edit 3, Instructions Page 5.

### **Clarify When to List a “Class of Admission”**

In Part 3, Item Number 1, the I-912 asks for “current status in the United States.” Immediately afterwards, in Part 3, Item Number 2, it asks for the “class of admission.” Most applicants will not know what a “class of admission” is. When they look to the instructions, they will see that they should list the class of admission from their I-551 or their I-94. They also will see that if they have “no status” they should list “N/A.” But many applicants will be confused. What if they have no I-551 or I-94, but they have a “status” that they checked in Part 3, Item Number 1? To avoid this confusion, we suggest that the instructions be edited to indicate that a person should leave the field blank if they have “status” but no I-551 or I-94. *See* Edit 4, Instructions Page 3. (Alternatively, the instructions could be edited to read “If you have no status or no I-551 or I-94, leave the space blank.”)

\* \* \*

If you have any questions, please feel free to contact me for clarification at [kjackson@publiccounsel.org](mailto:kjackson@publiccounsel.org). Thank you for your consideration of these comments, which we believe will improve the effectiveness of the I-912 for USCIS, advocates, and immigrants alike.

Sincerely,

A handwritten signature in dark ink, appearing to be 'K. Jackson', with a long horizontal flourish extending to the right.

Kristen Jackson  
Senior Staff Attorney

Enclosures

## Specific Instructions

### Part 1. Basis for Your Request

**Item Number 1.** Select an inability to pay at the time of filing by selecting all that apply: you, your spouse, or head of household living with you, and receiving a means-tested benefit (**Part 5. Means-Tested Benefits**); your household income is at or below 150 percent of the Federal Poverty Guidelines (**Part 6. Income Below 150 Percent of the Federal Poverty Guidelines**); or you have a financial hardship situation such as recent unemployment, high medical expenses, or other unexpected large expense that make you unable to pay (**Part 7. Financial Hardship**).

You must provide additional details, including evidence, as explained in each part below.

### Part 2. Information About You (The Requestor)

**Item Number 1. Your Full Name.** Provide your full name. If you have two last names, include both in the Family Name box and use a hyphen (-) if appropriate. If you do not have a middle name, type or print "N/A."

**Item Number 2. Other Names Used** (if any). Provide all other names you have used, including your maiden name.

**Item Number 3. Alien Registration Number (A-Number)** (if any). Provide your A-Number in the space provided. If you do not have an A-Number, type or print "N/A."

**Item Number 4. USCIS ELIS Account Number** (if any). If you have previously filed an application, petition, or request using the USCIS Electronic Immigration System (USCIS ELIS), provide the USCIS ELIS Account Number you were issued by the system. The USCIS ELIS Account Number is **not** the same as an A-Number. If you were issued a USCIS ELIS Account Number, enter it in the space provided.

**Item Number 5. Date of Birth.** Enter your date of birth in mm/dd/yyyy format. For example, enter May 1, 1979, as 05/01/1979.

**Item Number 6. U.S. Social Security Number** (if any). Provide your U.S. Social Security number. If you do not have a U.S. Social Security number, type or print "N/A."

**Item Number 7. Marital Status.** Select "Single, Never Married," "Married," "Divorced," "Widowed," "Legally Separated," "Marriage Annulled," or "Other." If you are separated but do not have a court order of legal separation, select "Other" and type or print "Separated."

### Part 3. Information about your Status

**Item Number 1.** Indicate your current immigration status. Select **only one**. *Select the "Special Immigrant Juvenile" box if you have an approved, pending, or concurrently-filed Form I-360 for Special Immigrant Juvenile status.*

**Item Number 2.** Indicate your class of admission. This admission code can be found on your legal permanent resident card (I-551) or Arrival-Departure Record (I-94). If you have no status, type or print "N/A" in the space provided. *if you have a status but no I-551 or I-94, leave the space blank.*

**Item Number 3.** Indicate your current employment status.

**Item Number 4.** Indicate if you are currently receiving unemployment benefits, if applicable. Provide the date that you became unemployed. Provide the amount of unemployment in the table in **Part 6., Item Number 5. Additional Income**.

### Part 4. Applications and Petitions for Fee Waivers

**Item Number 1.** Provide the form numbers and number of total forms of the applications and petitions for which you are requesting a fee waiver. The fee waiver request includes the filing fee and biometric services fee, if applicable.

**Item Number 2.** Provide the family members who are filing forms together with your request of a fee waiver. In the space provided, enter the family member's name, A-Number (if any), date of birth, and their relationship to you.



## Part 6. Income Below 150 percent of the Federal Poverty Guidelines

### Household Size

Provide information about the members of your household.

**Item Number 1.** Indicate whether you are providing the primary financial support for your household.

You are the head of household if you filed the most recent federal tax return for your household (includes filing as head of household) or earned the majority of the income for your household.

List yourself in the table provided on Form I-912.

If you are not the head of household, list the person who is the head of household and yourself in the table.

If you are not the head of household, the head of household is the person who filed the most recent tax return on which you are listed as a dependent or the person who provides the majority of your household's income.

Identify whether any family members living in your household are dependent on your income, your spouse's income, or head of household's income.

**1. Include the following people as part of your household size (dependent on your income, your spouse's income, or head of household's income):**

- A. You;
- B. The head of your household (if not you);
- C. Your spouse living with you (if you are separated or your spouse is not living with you, do not include your spouse); or
- D. Any of the following family members:
  - (1) Your children or legal wards, who are unmarried and under 21 years of age, and who live with you;
  - (2) Your children or legal wards, who are unmarried and are over 21 years of age but under 24 years of age, are full-time students, and who live with you when not at school;
  - (3) Your children or legal wards, who are unmarried and for whom you are the legal guardian because they are physically or developmentally disabled or mentally impaired to the extent that they cannot adequately care for themselves and cannot establish, maintain, or re-establish their own household;
  - (4) Your parents who live with you; and
  - (5) Any other dependents listed on your federal tax return, or your spouse or head of household's federal tax returns.

**2. Indicate whether your spouse is living with you. If so, list your spouse in the table in Item Number 2.**

**Item Number 2. Provide information on any dependents you listed on your federal tax returns.** For each person, provide their full name, their date of birth, their relationship to you, whether they are married, whether they are a full-time student, and indicate whether the person is earning an income that is counted toward the household income.

**Item Number 3. Provide information on your annual total income.** This is based on total income before any deductions (for example, Line 22 on Internal Revenue Service (IRS) Form 1040, U.S. Individual Income Tax Return). Take your total household wage income (before any deductions) for the previous 12-month period, then enter that amount as your household's annual wage income.

### Household Income

Provide information about your income and the income of household members. In order to qualify for the fee waiver, your household income must be at or below 150 percent of the Federal Poverty Guidelines at the time of filing.

If you answered "No" to Item Number 1. and you are filing as a Special Immigrant Juvenile, list yourself in the table provided on Form I-912, list your Total Household Size as "1" and skip to Part 6, Question 3. EDIT 3

**Part 5. Means-Tested Benefits (continued)**

Means-Tested Benefit Recipients					
Full Name of Person Receiving the Benefit	Relationship to You	Type of Benefit and Name of Agency Awarding Benefit	Date Benefit was Awarded	Is the Benefit Being Received Now?	Date Benefit Expires or Must be Renewed
				<input type="checkbox"/> Yes <input type="checkbox"/> No	
				<input type="checkbox"/> Yes <input type="checkbox"/> No	
				<input type="checkbox"/> Yes <input type="checkbox"/> No	
				<input type="checkbox"/> Yes <input type="checkbox"/> No	
				<input type="checkbox"/> Yes <input type="checkbox"/> No	
				<input type="checkbox"/> Yes <input type="checkbox"/> No	

*(if you answered "No" to Item Number 1, and*

**Part 6. Income Below 150 Percent of the Federal Poverty Guidelines**

**Household Size** *you are filing as a Special Immigrant Juvenile, type or print your name in the table below, list your Total Household Size as "1" and skip to Part 6, Question 3. EDIT 2*  
Provide evidence of annual income or other support and provide information about the members of your household.

1. Are you the person providing the primary financial support for your household? ☐ Yes ☐ No

If you answered "Yes" to **Item Number 1**, type or print your name in the table below. If you answered "No" to **Item Number 1**, add your name and the head of household's name in the table below.

- A. Are there family members living in your home who are dependent upon your income, your spouse's income, or head of household's income? ☐ Yes ☐ No

If you answered "Yes," provide information about the family members in the table below.

- B. If you are married or separated, does your spouse live in your household? ☐ Yes ☐ No

If you answered "Yes," provide information about your spouse in the table below.

2. Do you claim dependents on your federal tax returns? ☐ Yes ☐ No

If you answered "Yes," provide information about your dependents in the table below.

If you need extra space to complete this section, use the space provided in **Part 12. Additional Information**.

Household Size					
Full Name	Date of Birth	Relationship to You	Married	Full-Time Student	Does Person Earn Income Counted Toward Household Income
		Self	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Total Household Size (including you)					