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June 9, 2016

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

RE: Agency Information Collection Activities: Application for Travel Document, Form I-131; Extension, Without Change, of a Currently Approved Collection (June 7, 2016); Docket No. USCIS-2007-0045; OMB Control Number 1615-0013.

Dear Acting Chief Deshommes:

The Immigrant Legal Resource Center (ILRC) submits the following comment in response to the notice of revisions made to Form I-131, *Application for Travel Document* and instructions. Founded in 1979, ILRC is a national resource center that provides training, consultations, publications, and advocacy support to individuals and groups assisting low-income persons with immigration matters. ILRC works with a broad array of individuals, agencies, and institutions, including immigration attorneys and advocates, criminal defense attorneys, civil rights advocates, social workers, law enforcement, judges, and local and state elected officials.

ILRC is uniquely qualified to provide comments regarding the proposed forms in light of its extensive training of practitioners regarding parole in immigration law. This extensive technical knowledge includes regular trainings, seminars, and advisories, including *Parole in Immigration Law*,¹ *Advanced DACA – Latest Developments and Advance Parole*,² *From Advance Parole to a Green Card for DACA Recipients*,³ *DACA Renewal and Advance Parole Practice Advisory*,⁴ and

¹ Parole in Immigration Law, *Trainings & Seminars*, IMMIGRANT LEGAL RESOURCE CENTER (Last accessed March 7, 2016) <http://www.ilrc.org/trainings-webinars/webinars/parole-in-immigration-law-0>.

² Advanced DACA - Latest Developments and Advance Parole, *Trainings & Seminars*, IMMIGRANT LEGAL RESOURCE CENTER (Last accessed March 7, 2016), <http://www.ilrc.org/trainings-webinars/webinars/advanced-daca-latest-developments-and-advance-parole>.

³ Lena Graber and Jose Magaña-Salgado, *From Advance Parole to a Green Card for DACA Recipients*, IMMIGRANT LEGAL RESOURCE CENTER, Sep. 2015, available at <http://www.ilrc.org/resources/from-advance-parole-to-a-green-card-for-daca-recipients>.

⁴ *DACA Renewal and Advance Parole*, IMMIGRANT LEGAL RESOURCE CENTER & UNITED WE DREAM, Aug. 2015, available at <http://www.ilrc.org/resources/daca-renewal-and-advance-parole-practice-advisory-english-spanish>.

other guidance. In light of this deep reservoir of technical knowledge, we submit the below comments.⁵

1. PROVIDE BETTER GUIDANCE ON PERMISSIBLE DATES OF TRAVEL

When U.S. Citizenship and Immigration Services (USCIS) approves Form I-131, it issues Form I-512L, *Authorization for Parole of an Alien Into the United States* to an applicant. USCIS, however, does not issue any additional guidance regarding the interpretation of Form I-512L. This lack of guidance confuses many applicants regarding permissible travel dates and may lead to negative consequences stemming from travel outside of permissible periods. This confusion stems from USCIS often issuing Form I-512L with a prospective “Date Issued” (and therefore providing a travel document to an individual *before* they are allowed to travel) or using a specific numerical count of days to enumerate the validity of the advance parole document, e.g. “30 days.” Accordingly, USCIS should insert the following language in the appropriate section of the instructions:

“**IMPORTANT:** If Form I-131 is approved for advance parole, you will receive Form I-512L, *Authorization for Parole of an Alien Into the United States*. This form will contain two important dates. The date under “Date Issued” represents the beginning validity period of the advance parole document. You must only depart on or after the “Date Issued” date. If you travel before this date, you risk negative consequences to future immigration applications, including DACA. The second date under “PAROLE” signifies the date by which you must be paroled back into the country or else risk being denied re-entry and negative future consequences. Sometimes, this section instead gives a numerical count of days, for example “30 days.” In those cases, you must be paroled back into the country before that number of days have elapsed after the “Date Issued” date.”

2. PROVIDE GUIDANCE REGARDING ADVANCE PAROLE AND NEGATIVE IMPACTS ON DACA

Travel without advance parole will cause Deferred Action for Childhood Arrivals (DACA) recipients to break continuous residence and make them ineligible for renewal. USCIS considers an individual traveling “without” advance parole, even in cases where an individual possess a valid Form I-512L but leaves before the issuance date, to have “interrupted” their continuous residence, thereby automatically terminating their deferred action under DACA. For example, if a DACA recipient requested and obtained Form I-512L with an issuance date of March 1, 2016 but left the country on February 15, 2016 with her advance parole document in hand, USCIS would still consider that individual as traveling “without” advance parole, breaking continuous residence and being consequently ineligible for DACA renewal. Due to the lack of guidance on this issue and confusing language of Form I-512L, travel before the issuance date of Form I-512L has become a serious problem among the DACA community. ILRC has been tracking this issue and has elevated close to a dozen cases where individuals accidentally traveled before their issuance date and were subsequently denied DACA renewal.

⁵ Underlined text indicates an insertion. Strikethrough indicates a deletion. For ease of formatting and readability, this comment does not use block quotes, but rather quotation marks in conjunction with indents.

DHS-HQ, USCIS, and the USCIS Ombudsman have all acknowledged the existence of this problem. USCIS is already in the process of updating its public facing guidance on DACA. USCIS, however, should also correspondingly update Form I-131 Instructions to eliminate this confusion and ensure that individuals only travel within the allowed dates. Accordingly, USCIS should insert the following language under “Who May File Form I-131?” on page 5, at the end of section (4):

“WARNING: Even if USCIS approves your Form I-131 and issues you Form I-512L authorizing your parole, you must still leave on or after the “Date Issued” date on Form I-512L and return on or before the expiration of your parole. Departing before your “Date Issued” date, even with an advance parole document, may impact your ability to obtain renewal of DACA. Additionally, failure to return before the expiration of your parole may impact your ability to re-enter the country and obtain renewal of DACA.”

3. PROVIDE GUIDANCE REGARDING USE AND RETENTION OF FORM I-512L

After approving Form I-131, USCIS issues two identical copies of Form I-512L. USCIS, however, fails to provide any guidance regarding the use of this form, including informing the applicant that: (a) U.S. Customs and Border Protection (CBP) will permanently retain one copy the form; (b) CBP must stamp both copies; (c) CBP should allow the applicant to keep a copy of the form; and (d) the applicant (particularly DACA recipients) should endeavor to maintain a copy of the form for future immigration applications and requests for relief.

This lack of clear guidance has led many immigrants to report confusion to ILRC regarding the actual logistics of returning with an advance parole document. In some cases, CBP has erroneously taken both copies of Form I-512L without protest from an applicant because of a lack of understanding of the correct procedure. In other cases, applicants only travel with one copy of form I-512L because there is nothing to indicate that they need both, identical forms. In yet other cases, CBP has refused to stamp an individual’s Form I-512L. Finally, USCIS strongly encourages that DACA recipients seeking renewal include a copy of their I-512L in their renewal request, but nothing in the Form I-131 Instructions indicates that form I-512L is needed for non-advance parole purposes. Accordingly, USCIS should insert the following language in the appropriate section of the instructions:

“Form I-512L. If approved, USCIS will issue you two identical copies of Form I-512L, Authorization for Parole of an Alien Into the United States. Both of these forms are necessary to be paroled back into the country. At a port-of-entry, a CBP officer will stamp both forms and retain one copy. You should keep the copy for your records, particularly if you are applying for relief that requires you to document travel, such as renewal of DACA.”

4. PROVIDE SPACE IN THE FORM FOR APPLICANTS WHO SEEK ADVANCE PAROLE FOR MULTIPLE TRIPS

In Part 7 of the Form I-131, an applicant must indicate whether she seeks advance parole for one trip or more trips. However, Part 3, “Processing Information,” only provides space to give the dates of travel for one trip. USCIS should allow for input of additional travel dates.

Accordingly, USCIS should make the following changes under “Part 3. Processing Information” on page 2:

“1.a. Date of Intended Departure
(mm/dd/yyyy) ►
21.b. Expected Length of Trip (in days)

2.a. Date of Additional Departure
(mm/dd/yyyy) ►
2.b. Expected Length of Trip (in days)

2.c. Date of Additional Departure
(mm/dd/yyyy) ►
2.d. Expected Length of Trip (in days) ”

Additionally, USCIS should update Form I-131 Instructions to clearly explain how to apply for multiple trips and whether there are restrictions on multiple trips for any category of applicant or travel document. Accordingly, USCIS should insert the following language in the appropriate section of the instructions:

“If you are seeking advance parole for multiple trips, include the intended dates of travel for each trip and evidence to support its purposes, as needed.”

Finally, USCIS should endeavor to ensure that Form I-512L reflects the appropriate dates and validity for multiple trips. Form I-512L is already confusing for a single exit and entry and USCIS must ensure, especially in light of potentially negative consequences, that a multi-use Form I-512L is understandable and accessible.

5. REFER TO ADVANCE PAROLE FROM OUTSIDE THE UNITED STATES AS “HUMANITARIAN PAROLE”

USCIS most frequently refers to an application for parole from outside the United States as “humanitarian parole.”⁶ But in the Form I-131 instructions, USCIS refers to those applying for parole from outside the country as “advance parole for individuals outside the United States.” As the application requirements for advance parole approval for travel from within the United States and humanitarian parole into the country from abroad are quite distinct, USCIS should use different terms to apply to each. “Humanitarian parole” is an acceptable and more commonly understood term for the application for parole from outside of the country. Accordingly, USCIS should update all references to travel document for “Advance Parole Document for Individuals Outside the United States” to “Humanitarian Parole Document for Individuals Outside the United States.”

⁶ See U.S. CITIZENSHIP AND IMMIGRATION SERVICES, U.S. DEPARTMENT OF HOMELAND SECURITY, Humanitarian Parole (Aug. 17, 2015), available at <https://www.uscis.gov/humanitarian/humanitarian-parole>.

6. PROVIDE CLEARER GUIDANCE REGARDING INADMISSIBILITY AND ADJUSTMENT

USCIS correctly states that a paroled individual has not been admitted to the United States and remains an “applicant for admission.” However, USCIS should clarify that parole can positively affect the ability of an individual to adjust status, as INA § 245(a), which governs adjustment, allows the adjustment of otherwise eligible individuals who have been admitted *or* paroled. USCIS should make the following changes under “What Is the Purpose of This Form?” on page 1, section 3:

“An individual who has been ‘paroled’ has not been admitted to the United States and remains an ‘applicant for admission’ even while paroled. *An individual who is paroled, however, is paroled for the purposes of adjustment under INA § 245(a).*”

7. PROVIDE GUIDANCE REGARDING FILING FORM I-131 FOR PAROLE-IN-PLACE

On November 15, 2013, USCIS released a policy memorandum that allows spouses, children, and parents of active duty and former members of the U.S. Armed Forces and Selected Reserve of the Ready Reserve to apply for and receive parole. As part of that guidance, USCIS instructed that applicants must submit a “[c]ompleted Form I-131, Application for Travel Document” to apply for parole.⁷ This guidance was supplemented by a November 20, 2014 memorandum from Secretary Jeh Johnson that expanded the availability of parole-in-place for undocumented spouses, children, and parents of U.S. citizens and lawful permanent residents *seeking* to enlist in the U.S. Armed Forces and Selected Reserve of the Ready Reserve.⁸ While USCIS expects individuals to employ Form I-131 to apply for these parole-in-place initiatives, Form I-131 Instructions—troublingly—provides no guidance regarding this application process. Accordingly, USCIS should make the following change under “Who May File Form I-131?” on page 5:

“(8) You are applying for special parole consideration, such as for spouses, children, and parents of a U.S. citizen or lawful permanent resident who currently serves, previously served, or is seeking to enlist as a member of the U.S. Armed Forces or the Selected Reserve of the Ready Reserve.”

Additionally, USCIS determined that individuals filing Form I-131 for parole-in-place consideration may do so “without fee, per 8 CFR 103.7(d).”⁹ Yet, this ability to file without fee is not reflected in the current instructions, which may lead those who apply for parole-in-place to

⁷ Memorandum from Alejandro Mayorkas, Director, U.S. Citizenship and Immigration Services, on 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 § 212(a)(6)(A)(i) to U.S. Citizenship and Immigration Services Employees (Nov. 15, 2013), *available at* https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/2013/2013-1115_Parole_in_Place_Memo_.pdf.

⁸ Memorandum from Jeh C. Johnson, Secretary, U.S. Department of Homeland Security, on Families of U.S. Armed Forces Members and Enlistees to Leon Rodriguez, Director, U.S. Citizenship and Immigration Services (Nov. 20, 2014), *available at* http://www.dhs.gov/sites/default/files/publications/14_1120_memo_parole_in_place_0.pdf.

⁹ *Id.*

believe they must pay a \$360 filing fee. Accordingly, USCIS should make the following change under “What is the Filing?” on page 12:

“Advance Parole Document for Individuals Who are Currently in the United States (including individuals whose cases were deferred pursuant to DACA): The filing fee for an Advance Parole Document for an individual who is currently in the United States is \$360. The biometrics services fee is not required. There is no filing or biometrics fee, however, for individuals applying for special parole consideration, such as for spouses, children, and parents of a U.S. citizen or lawful permanent resident who currently serves, previously served, or is seeking to enlist as a member of the U.S. Armed Forces or the Selected Reserve of the Ready Reserve.”

8. PROVIDE A SAMPLE TRANSLATION CERTIFICATE FOR FOREIGN LANGUAGE DOCUMENTS

The instructions do not give an example of a template translation certification that a requestor should submit. The above language ensures that a requestor will provide a certification that contains all of the necessary information and is identical to the guidance provided by USCIS under the “General Tips on Assembling Applications for Mailing” section of its website¹⁰ and Form I-821D Instructions.¹¹ Accordingly, USCIS should make the following changes under “General Instructions” on page 8:

“Translations. If you submit . . . foreign language into English. An example certification would read “I, [typed name], certify that I am fluent (conversant) in the English and [language] languages, and that the above/attached document is an accurate translation of the document attached entitled [name of document].” The certification should also include the date and the translator’s signature, typed name, and address.”

Thank you for your consideration of ILRC’s views. Should you have any questions regarding these comments, please feel free to contact Jose Magana-Salgado at (202) 777-8999 or jmagana@ilrc.org.

Sincerely,



Jose Magaña-Salgado
Immigration Policy Attorney

¹⁰ See U.S. CITIZENSHIP AND IMMIGRATION SERVICES, U.S. DEPARTMENT OF HOMELAND SECURITY, General Tips on Assembling Applications for Mailing, U.S. Citizenship and Immigration Services (Nov. 21, 2013), <http://www.uscis.gov/forms/forms-and-fees/general-tips-assembling-applications-mailing>.

¹¹ See U.S. CITIZENSHIP AND IMMIGRATION SERVICES, U.S. DEPARTMENT OF HOMELAND SECURITY, Form I-821D Instructions, Consideration of Deferred Action for Childhood Arrivals 3 (June 4, 2014), available at <http://www.uscis.gov/sites/default/files/files/form/i-821dinstr.pdf>.