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USCIS

John R. Pfirrmann-Powell

Acting Deputy Chief

Office of Policy and Strategy

Regulatory Coordination Division

RE: ILRC Comment in Opposition to Agency Information Collection Activities – OMB No. 1615-0012; Docket ID USCIS 2007-0037, Revision of a Currently Approved Collection: Form I-130, Petition for [Immigrant] Relative

Dear Mr. Pfirrmann-Powell,

The Immigrant Legal Resource Center (ILRC) submits this comment in strong opposition to the Department of Homeland Security (“DHS”) U.S. Citizenship and Immigration Services (“USCIS”) Information Collection Activities proposing changes to the I-130 form published on July 16, 2026. The ILRC opposes the changes to the Form I-130, as they are substantive changes to immigration law introduced under the pretense of a form change. The information collection is further being used to create even more barriers for immigrants attempting to gain immigration status.

The ILRC is a national non-profit organization that provides legal trainings, educational materials, and advocacy to advance immigrant rights. The ILRC’s mission is to work with and educate immigrants, community organizations, and the legal sector to continue to build a democratic society that values diversity and the rights of all people. Since its inception in 1979, the ILRC has provided technical assistance on hundreds of thousands of immigration law issues, trained thousands of advocates and pro bono attorneys annually on immigration law and emerging issues, distributed thousands of practitioner guides, provided expertise to immigrant-led advocacy efforts across the country, and supported hundreds of immigration legal non-profit organizations supporting in building their capacity to support immigrants and their families.

The ILRC is also a leader in interpreting family-based immigration law and immigration relief for immigrants, producing trusted legal resources including webinars, trainings, and manuals such as *Families & Immigration: A Practical Guide*. Through our extensive network with service providers, immigration practitioners, and immigration benefits applicants, we have developed a profound understanding of the barriers faced by vulnerable immigrant and low-income communities of color. It is through this lens that we provide comment on the proposed changes to Form I-130.

I. Summary of the I-130 Proposed Changes

USCIS published an information collection that imposes dozens of new inquiries to the Form I-130 Petition for Alien Relative, more than doubling the length of the form from 12 to 25 pages, and the instructions from 11 to 22 pages.

In addition, per the revised instructions, each I-130 will also need to be accompanied by an I-130A if the beneficiary is over 14 years old and living in the United States.¹ The addition of the I-130A for all family petitions, not just spousal petitions, will add six more pages of questions, most of which are completely repetitive of information already provided on the I-130.

The proposed changes also include for the first time questions about the petitioner's criminal history. While a petitioner's criminal history can be relevant under the Adam Walsh Act,² such information is better identified through a biometrics appointment and background check, rather than asking a petitioner to self-report their criminal history by answering an additional 13 questions and sub-queries about criminal history as part of a fishing expedition that goes far beyond certain specified sexual offenses against a minor. This proposed information collection does not help validate whether the petitioner is a U.S. citizen (USC) or Lawful Permanent Resident (LPR), nor verify the qualifying relationship to the beneficiary, which are the primary purposes of the I-130.

The proposed changes violate the Administrative Procedures Act (APA) by imposing new standards for eligibility that are not supported by law. The changes also violate the Paperwork Reduction Act (PRA) by creating unjustified burdens on USC and LPR petitioners as well as their relatives who are beneficiaries. USCIS adjudicators will also be unduly burdened by vastly increased questions on the I-130 that stray far from the information needed to judge eligibility.

¹ Redlined instructions to the I-130, "What is the Purpose of Form I-130A?" states, "If your [noncitizen] beneficiary is currently residing in the United States and is 14 years of age or older, the beneficiary must complete Form I-130A... A legal guardian may complete the Form I-130A on behalf of a mentally incompetent person." Currently, the sole purpose of the I-130A is to gather additional information from a spouse beneficiary. See USCIS forms, <https://www.uscis.gov/sites/default/files/document/forms/i-130a.pdf>. No redlined I-130A is presented with this information collection despite this major change in focus.

² See Adam Walsh Act, [Pub. L. 109-248 \(PDF\)](#) (July 27, 2006). This act prohibits petitioners with certain sex offenses against a minor from filing an I-130.

II. Background on the Purpose of the USCIS Form I-130, a Benefit that is NOT Discretionary

Completing the USCIS Form I-130 is the first step that a USC or LPR must take to petition for certain relatives to obtain LPR status.³ The requirements for such petitions, including which close relatives may be filed for and what documentation needs to be supplied, are outlined in the regulations⁴ and explained further below.

A petitioner must establish two facts at this first step: 1) that they have a qualifying family relationship to the beneficiary and 2) that they are a USC or LPR (as required for the family category, i.e. only USCs can petition for parents). Accordingly, the I-130 must be accompanied by documentation to establish the qualifying relationship between petitioner and beneficiary, as well as evidence that petitioner is a USC or an LPR.⁵

The I-130 is merely a first step in the long road to gaining immigrant status in the United States. For non-immediate relatives, a properly filed I-130 establishes the beneficiary's priority date and place in line to wait for a visa to become available for their country of origin and preference category. They cannot proceed to the application for permanent resident status until their priority date is current, sometimes resulting in a wait of many years and even decades. Approval of an I-130 does not grant any kind of status, admission to the United States, permission to work, or permission to remain in the United States. The purpose of the form is solely to verify that a qualifying relationship exists between the petitioner (USC or LPR) and the beneficiary. Admissibility is not an issue, nor is discretion, yet the vast increase in irrelevant questions on the proposed form appears to explore exactly those issues.

Beneficiaries who meet the definition of the qualifying relationship to petitioner for the applicable category are approved at the I-130 stage. There is no legally supported examination of admissibility and discretion at this stage—these factors only come into consideration at a later time during adjudication of the adjustment of status or consular application for an immigrant visa.

Unlike other benefits applications at USCIS, the I-130 is *not* a discretionary benefit.⁶ That is, if the petitioner establishes that the qualifying family relationship exists, and that the petitioner is a

³ This list of possible relatives who can be petitioned for by a USC includes a spouse, parent, child/son or daughter, or a sibling. An LPR can petition for a spouse or a child/son or daughter. USCIS, *Who May File Form I-130*, <https://www.uscis.gov/sites/default/files/document/forms/i-130instr.pdf>.

⁴ 8 CFR 204.1 specifies the type of petitions that may be filed by a USC or LPR and details the supporting documentation to prove the petitioner (USC or LPR)'s status and the qualifying relationship to the beneficiary relative.

⁵ 8 CFR 204.1, 6 USCIS Policy Manual (USCIS-PM) B.4, Documentation for I-130, <https://www.uscis.gov/policy-manual/volume-6-part-b-chapter-4>.

⁶ 1 USCIS-PM E.8, Discretionary Analysis (Chart listing which applications are discretionary, and which are not, the latter including I-130s), <https://www.uscis.gov/policy-manual/volume-1-part-e-chapter-8>.

USC or LPR as required for the petition classification, the petition should be granted without further exploration of extraneous factors.

The many new questions in this proposed information collection exceed the legal requirements for the I-130 family petition and appear to be trying to introduce a discretionary element into a benefit that is not discretionary.

III. The Proposed Information Collection for Petitioner and Beneficiary Is Not Grounded in Current Immigration Law

With this proposed information collection DHS is adding many additional pages of questions to the petitioner and beneficiary sections. As described below, many of the questions are not grounded in current immigration law or necessary to adjudicate an I-130 petition.

A. Collection of Petitioner Information

Petitioner's previous marriage information: The proposed Form I-130 asks the petitioner to list when they entered their previous marriage and when that marriage ended. While the terminated date of a previous marriage is needed to show that the current marriage is valid, there is no need to request the date when the petitioner entered into the previous marriage. This does not add information that helps determine if the underlying relationship in a spousal petition is legitimate and therefore should be stricken.

Petitioner's parent's information: The proposed Form I-130 adds a question of petitioner's parents, asking if they were foreign diplomatic officers accredited by the U.S. Department of State. This information is not needed to show that the petitioner is eligible to petition their family member and should be stricken.

Petitioner's criminal history: The proposed Form I-130 asks the petitioner to list if they "have EVER been detained, arrested, cited, charged, or confined by any law enforcement officer, military official (in the U.S. or elsewhere), for committing or attempting to commit an offense against or involving a minor (person under 18 years of age)?" If they answer yes to this question, then they must list details about the arrest like location and result and attach supporting documentation. This information is beyond what the petitioner is required to provide, by law, to be eligible to petition a family member. A U.S. citizen or LPR needs to establish that they have the proper immigration status required to petition the family member and the qualifying legal relationship, recognized under the immigration laws, to that family member. While a petitioner is prohibited from petitioning for family members if they have been *convicted* of certain sexual offenses against a minor as defined in section 111(7) of the Act, this proposed new question is overly broad since it asks about citations, arrests, and charges as well as convictions,

and asks about *any* offenses involving a minor.⁷ Only convictions of certain sexual offenses against a minor potentially disqualify a petitioner from petitioning their family member, and even then it is not an absolute bar—USCIS may allow the I-130 to go forward if it determines that the petitioner poses no risk to the beneficiary. Traditional biometrics appointments and background checks are sufficient to screen for this possible flag and will provide more reliable, accurate information than something a petitioner is asked to self-report.

Petitioner’s relationship to beneficiary: The proposed Form I-130 adds several questions related to the petitioner’s relationship to the beneficiary. The new parts are divided by questions for the petitioner and questions for the beneficiary. The new questions delve into how the relationship was formed with their spouse; whether a parent-child relationship involved assisted reproductive technology; how the child’s relationship was formed to the parent and if the petitioner’s parents were married; for stepchildren, when the petitioner’s parents were married in relation to petitioning their sibling. While these questions relate to the qualifying family relationship, the new questions are excessive. 8 CFR 204.2 lists what is needed to prove eligibility and establish the relationship to the beneficiary. The required supporting documents are sufficient to prove that the petitioner meets the statutory and regulatory requirements, without also needing to answer additional questions on the I-130 form essentially describing or confirming what is in the evidence accompanying the I-130.

B. Collection of Beneficiary Information

Beneficiary’s address history: The proposed Form I-130 asks the petitioner to list the five-year address history of the beneficiary. This information is redundant, Form I-130A already requires this information and the Form I-130A is concurrently filed with the Form I-130. Moreover, it is more appropriate for the beneficiary to provide this information within the Form I-130A. These new data points should be stricken from the proposed Form I-130.

Beneficiary’s parents’ information: Similarly, the proposed Form I-130 asks the petitioner to list personal identifying information of the beneficiary’s parents. This information is redundant, Form I-130A already requires this information and the Form I-130A is concurrently filed with the Form I-130. Moreover, it is more appropriate for the beneficiary to provide this information. These new data points should be stricken from the proposed Form I-130.

Beneficiary’s current immigration status: The proposed Form I-130 also asks the petitioner to list the beneficiary’s current immigration status. This information is irrelevant. A beneficiary’s

⁷ Notably, a very small group of petitioners are excluded under the Adam Walsh Act as it’s only a petitioner who has been convicted of a specified offense against a minor is prohibited from filing a family-based petition on behalf of any family-based beneficiary. See Adam Walsh Act, [Pub. L. 109-248 \(PDF\)](#) (July 27, 2006). See [INA 204\(a\)\(1\)\(A\)\(i\)](#). See [INA 204\(a\)\(1\)\(B\)\(i\)](#). See [INA 101\(a\)\(15\)\(K\)](#). See Volume 6, Immigrants, Part C, Adam Walsh Act [[6 USCIS-PM C](#)].

current immigration status is outside the scope of the purpose of the family petition. The beneficiary's immigration status is not necessary for USCIS to determine whether a qualifying relationship has been established. This new data point should be stricken from the proposed Form I-130.

Beneficiary's employment and educational history: The proposed Form I-130 also asks the petitioner to list the five-year employment and educational history of the beneficiary. This information is outside the scope of the purpose of the family petition. The beneficiary's employment and educational history have no bearing on whether the petitioner can establish the qualifying relationship. Moreover, the Form I-130A already asks the beneficiary to provide this information, which is more appropriate. Further, the beneficiary already supplies employment history on their application for permanent resident status later in the process; there is no need to solicit such information at this stage when it is legally irrelevant. These new data points should be stricken from the proposed Form I-130.

Proposed information collection now requires all beneficiaries over 14 years of age who are present in the United States to complete Form I-130A: The prior edition of Form I-130 and Form I-130A only required the Form I-130A to be completed by spousal beneficiaries. Now, all beneficiaries who are over 14 years of age and present in the United States must complete the Form I-130A. By completing the Form I-130A, the beneficiary certifies the information completed by the petitioner in Form I-130 parts 4, 10, 12, as well as parts pertaining to the petitioner and beneficiary's relationship (Parts 5-9). Most of the information collected by the Form I-130A for non-spousal beneficiaries (i.e., children, sons, daughters, and parents) is outside the scope of the primary purpose of the family petition as it is not required to establish the requisite qualifying relationship. Moreover, it places the burden on beneficiaries, some as young as 14 years of age, to certify the information provided by and completed by the petitioner.

IV. The Proposed Changes Violate the Paperwork Reduction Act (PRA) Because it Imposes a Weighty Burden on Petitioners, Beneficiaries, Legal Practitioners, and Adjudicators

Under the PRA,⁸ USCIS must show that any information it collects is necessary, has practical utility, and minimizes the burden on the public. The agency did not include an explanation as to why this information needs to be collected on this form, especially when the information is double the length and complexity. Moreover, the proposed information collection is not grounded in the law and will pose an obstacle to family reunification—a deliberate act that is being imposed by this administration. USCIS has not explained why broad arrest and criminal history questions are necessary. Beyond Adam Walsh Act considerations, which only apply to certain sex offenses, the new questions ask about any and all petitioner arrests or convictions including juvenile offenses.

⁸ 44 U.S.C. § 3501 et seq. (1980).

All these additional questions pose an unreasonable burden that is not justified with any, let alone any logical, explanation by USCIS. Additionally, USCIS has not adequately accounted for the burden on individuals, service providers, and communities with limited English proficiency or limited access to legal representation.

The proposed form is also a burden on adjudicators who must weed through pages and pages of irrelevant questions and answers to determine the essential questions: Is this petitioner a USC or LPR? And does this petitioner have a qualifying family relationship to this particular beneficiary?

USCIS estimates that the Form I-130 can be completed in 2.3 hours and Form I-130A in .4 hours. Those estimates appear to significantly underestimate the time and cost of answering an additional 12 to 25 pages and the gathering and accurately reporting of employment, education, and criminal history information.

As such, DHS has added substantial burden on petitioners, beneficiaries, legal practitioners, and beneficiaries via the proposed I-130 form changes without accounting for why such substantial increased burden is warranted.

V. The Proposed Changes Violate the Administrative Procedure Act (APA) Because They are Arbitrary and Capricious and Purport to Create New Requirements for the I-130

The Administrative Procedure Act (APA) establishes the procedures by which federal agencies are held accountable to the public and subjects their actions to judicial review.⁹ Under Supreme Court precedent, the agency is required to engage in “reasoned decision-making.”¹⁰ Further, an agency action is found to be arbitrary and capricious if:

The agency has relied on factors which Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or it is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.¹¹

DHS’s proposed changes to Form I-130 raise these concerns in several respects.

A. DHS is Seemingly Making Substantive Legal Changes via a Proposed Form Change

The proposed additions would change existing law and authority by imposing new requirements for a family petition. There is no statute or regulation that supports questioning petitioners and beneficiaries on factors related to discretion and admissibility. Further, DHS has not adequately

⁹ *Dep’t of Homeland Sec. v. Regents of the Univ. of California*, 140 S. Ct. 1891, 1905, 207 L. Ed. 2d 353 (2020).

¹⁰ *Id* quoting *Michigan v. EPA*, 576 U.S. 743, 750, 135 S.Ct. 2699, 192 L.Ed.2d 674 (2015).

¹¹ *Motor Vehicle Mfrs. Ass’n of the U.S., Inc. v. State Farm Mut. Auto Ins. Co.*, 463 U.S. 29, 43 (1983).

explained why each new category of information is necessary for adjudicating a I-130 petition.¹² The lack of explanation is particularly significant where the requested information could affect an individual's ability to pursue an immigration benefit.

As stated above, the proposed information collection doubles the length of the I-130 form from 12 pages to 25 pages (with an additional 6 pages from the I-130A now required in all cases) by adding dozens of irrelevant questions that do not serve the legal purpose of the I-130 and that purport to inject discretionary considerations into the adjudication of the petition. Some of the new questions that petitioners and their relatives must answer include detailed information about their parents, past marriages, and criminal history. These subject matters are irrelevant to establishing a petitioner's relationship to the beneficiary or the petitioner's immigration status, the core legal inquiry for the I-130 family petition.

It appears that USCIS is introducing new eligibility criteria into the I-130 beyond establishing the qualifying relationship and the status of the USC/LPR petitioner. If DHS intends to use information collected through the revised form to determine a petitioner's ability to petition or a beneficiary's eligibility to obtain an immigration benefit, DHS must identify the statutory or regulatory authority supporting that use. An agency may not impose substantive requirements through an information-collection instrument without adequate legal authority and where required, compliance with the APA's notice and comment requirements.¹³ Moreover, as established in Part III of this comment, the underlying law does not match the proposed changes to the form and, therefore, violates the APA.

B. DHS Has Failed to Consider Significant Reliance Interests and the Downstream Effects of the Proposed Changes

DHS has failed to meaningfully consider the substantial burdens that the proposed changes could impose on individuals navigating the immigration system. The proposed information collection could affect individuals who must decide whether a beneficiary will pursue adjustment of status in the United States or immigrant visa processing through a U.S. consulate abroad, since DHS does not adequately explain whether, or how, the additional information collected at the I-130

¹² An agency changing position must, at minimum, demonstrate awareness of that change and provide a reason for its new position. *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009). An agency "may not, for example, depart from a prior policy sub silentio or simply disregard rules that are still on the books." *Id.* Further, the agency's reasoning must be apparent on the face of what it says: though a reviewing court will "uphold a decision of less than ideal clarity if the agency's path may reasonably be discerned," it "may not supply a reasoned basis for the agency's action that the agency itself has not given." *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983) (citation omitted). The agency's stated reasoning must be more than conclusory. Under *Encino Motorcars, LLC v. Navarro*, conclusory assertions cannot amount to reasoned decision-making. See 579 U.S. 211, 224 (2016) ("In light of the serious reliance interests at stake, the Department's conclusory statements do not suffice to explain its decision."); see also *Nw. Immigrant Rts. Project v. USCIS*, 496 F. Supp. 3d 31, 76 (D.D.C. 2020) (appeal dismissed, No. 20-5369, 2021 WL 161666 (D.C. Cir. Jan. 12, 2021)). DHS must, at minimum, display awareness that it is changing position and show that there are good reasons for the new policy. *Fox*, 556 U.S. at 515.

¹³ 5 U.S.C. § 553.

stage might affect that subsequent choice or adjudication of the beneficiary's later application for LPR status.

Such uncertainty creates significant practical consequences for petitioners, beneficiaries, and their attorneys. Attorneys must be able to advise clients about the consequences of the information provided on the I-130. If an individual provides information one way at the I-130 stage and later proceeds through a different process, the individual may be required to explain an apparent discrepancy that the individual could not reasonably have anticipated when filing the petition. These concerns are particularly serious for unrepresented individuals, who may have no attorney to explain the potential consequences of their responses. Individuals may also later change counsel requiring new attorneys to obtain historical records through a Freedom of Information Act ("FOIA") request, which can take months or longer.

DHS is attempting to change immigration law, altering the ability of U.S. citizens and LPR to petition for their relatives in yet another attempt to thwart one of Congress' core principles within our immigration laws, family reunification. The proposed changes to the Form I-130 are not only substantive immigration law changes, but also violate the PRA, APA, and are arbitrary and capricious.

For all of these reasons, DHS should withdraw its proposed changes to the Form I-130.

Respectfully submitted,

The Immigrant Legal Resource Center