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November 25, 2024

Submitted via reginfo.gov

Re: Submission for Office of Management and Budget Review; Legal and Advocacy Services for Unaccompanied Children (Office of Management and Budget #0970-0565)

Dear Office of Refugee Resettlement,

The Immigrant Legal Service Center (ILRC) writes in response to the invitation to provide public comment on revisions to the approved information collection, “Legal and Advocacy Services for Unaccompanied Children” posted on October 25, 2024.

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, distributed thousands of practitioner guides, provided expertise to immigrant-led advocacy efforts across the country, and supported hundreds of immigration legal non-profit organizations in building their capacity.

The ILRC has a long history of producing trusted legal resources including webinars, trainings, and manuals such as *Special Immigrant Juvenile Status and Other Immigration Options for Children and Youth*. Through our extensive network with service providers and immigration practitioners, and immigration benefits applicants, we have developed a profound understanding of the barriers faced by immigrant youth and the challenges they face in government custody. ILRC commends ORR for responding and adopting crucial recommendations made by the public in this rule and submits this comment in relation to two forms.

- I. Form L-11 Recommended States List should be optional.

Currently, ORR policy guide section 1.4.4 requires law service providers (LSPs) to recommend states for long-term foster care (LTFC). The recommendation “must be based on the child’s potential for immigration relief in each state, type of immigration relief, and status of court hearings or relief petitions.” The issue with this requirement is that LSPs might not have the expertise to recommend an appropriate state for LTFC. The recommendation for LTFC based solely on potential immigration also forecloses any consideration of the child’s needs that could only be accessed in a different state from the recommended state. Accordingly, the Form L-11 should be optional.

Without sufficient knowledge of each state's laws or the applicable circuit law, an LSP cannot adequately recommend a LTFC placement in a particular state. For instance, to evaluate if a child is eligible for Special Immigrant Juvenile Status (SIJS), the LSP must have knowledge about a state's court process in family court, juvenile court/dependency court, probate, or other state court because SIJS requires a state court finding for eligibility. States vary widely in the different avenues available to obtain this requisite predicate order. For example, certain states have different jurisdictional age cutoffs. In California, certain youth can access predicate orders until age 21 while in Texas, the cutoff is 18. Knowing the differentiation between state court jurisdictions and processes is complicated, often evolving, and would be a difficult task for an LSP that will most likely only know the jurisdiction where it stands.

Furthermore, the interpretation of immigration laws within a state varies because it depends on what circuit court applies. Keeping track of the nuances of immigration law between different states is an enormous challenge for any attorney.

Lastly, the best interest of the child should be considered when making a recommendation for LTFC placement. Although immigration relief is one factor to consider in recommending a LTFC placement, there are other considerations that might be overlooked because the LSP is required to complete this form. Other considerations like family ties, or the child's education opportunities potential can have a severe impact on the child's life. A child could be placed in a recommended state where there is a potential for immigration relief, but the state might not be suitable for the child's needs.

Accordingly, the Form L-11 should be optional for an LSP at the very least.

- II. Form L-9 Case Status Summary for Executive Office for Immigration Review (EOIR) should be further edited.

The ILRC commends ORR for incorporating introductory text for the form that specifically points to the prohibition of using it as evidence in a child's removal proceedings. However, ILRC recommends the following edit, which places a bold emphasis on the prohibition. This ensures that the information is visible to the individual filling out the form and the receiving entity, EOIR. In addition, the form has an empty space that could be interpreted as a space to include additional information that might be inappropriate and could be prejudicial to the child's removal proceedings. ORR responded to a comment that the form is already limited in scope, and to ensure this, the empty space should be reduced. Lastly, ORR should consider adding language that ensures the form will be kept confidential to avoid running afoul of the child's privacy rights.

Current Form Version:

This form is completed by the Federal Field Specialist (FFS) or care provider (upon approval from the FFS) and sent to the Executive Office for Immigration Review (EOIR) in advance of a child's immigration court hearing. A copy of the form must also be shared with the child's legal service provider or attorney of record and child advocate (if applicable). The submission of this form must not be considered evidence in the child's removal proceedings and is being submitted for informational purposes related to the child's custody status only.

Editing Suggestion (emphasis on suggested language):

This form is completed by the Federal Field Specialist (FFS) or care provider (upon approval from the FFS) and sent to the Executive Office for Immigration Review (EOIR) in advance of a child's immigration court hearing. A copy of

the form must also be shared with the child's legal service provider or attorney of record and child advocate (if applicable). *The submission of this form must not be considered evidence in the child's removal proceedings and is being submitted for informational purposes related to the child's custody status only.*

ADDITION: The form should be kept confidential apart from the parties intended to complete the form and receive it.

If you have any questions or concerns about these recommendations, please contact Miosotti Tenecora at mtenecora@ilrc.org.

Sincerely,
/s/ Miosotti Tenecora
Miosotti Tenecora
Staff Attorney
Immigrant Legal Resource Center