



**ADVISORY BOARD**

Hon. John Burton  
Hon. Nancy Pelosi

**BOARD OF DIRECTORS**

Cynthia Alvarez  
Richard Boswell  
W. Hardy Callcott  
Aidin Castillo  
Tslon Gurmu  
Bill Ong Hing  
Sambou Makalou  
Luca D. Mangini  
Toni Rembe  
Rudy Ruano  
Guadalupe Sordia-Ortiz  
Lisa Spiegel  
Mawuena Tendar

**GENERAL COUNSEL**

Bill Ong Hing

**OF COUNSEL**

Don Ungar

**EXECUTIVE DIRECTOR**

Eric Cohen

---

**San Francisco**

1458 Howard Street  
San Francisco, CA 94103

**Washington, D.C.**

600 14th Street, NW  
Suite 502  
Washington, D.C. 20005

**San Antonio**

10127 Morocco Street  
Suite 149  
San Antonio, TX 78216

**Houston**

540 Heights Blvd  
Suite 205  
Houston, TX 77007

ilrc@ilrc.org  
www.ilrc.org

January 21, 2025

Samantha Deshommès  
Chief, Regulatory Coordinator  
Division Office of Policy and Strategy  
U.S. Citizenship and Immigration Services  
Department of Homeland Security

Re: Comment in Response to the DHS/USCIS Agency Information Collection Activities; Revision of a Currently Approved Collection: Petition for Amerasian, Widow(er), or Special Immigrant; OMB Control Number 1615-0020; USCIS Docket Number USCIS-2007-0024.

Submitted via Regulations.gov

Dear Chief Deshommès,

The Immigrant Legal Resource Center (ILRC) submits the following comment in response to the U.S. Citizenship and Immigration Services (USCIS), Department of Homeland Security's (DHS) Agency Information Collection Activities; Revision of a Currently Approved Collection: Petition for Amerasian, Widow(er), or Special Immigrant, published on December 19, 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 is also a leader in interpreting family-based immigration law as well as VAWA, U, and T immigration relief for survivors and Special Immigrant Juvenile Status and other relief for immigrant youth. The ILRC has a long history of producing trusted legal resources including webinars, trainings, and manuals such as Families & Immigration: A Practical Guide; The VAWA Manual: Immigration Relief for Abused Immigrants; and Special Immigrant Juvenile Status and Other Immigration Options for Children and Youth. 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 – including survivors of intimate partner violence, parental abuse and neglect, as well as other forms of trauma. It is through this lens that we provide the following comment on the proposed Form I-360 and Instructions as it pertains to Special Immigrant Juvenile Petitions, VAWA Self Petitions and widow/er petitions.



We are gratified to see that the proposed changes to Form I-360 incorporate some of the ILRC's suggestions from our October 15, 2024 comment submission.<sup>1</sup> The changes made will improve the form for practitioners and adjudicators alike.

We wish to reiterate our comment regarding the I-360 instructions which contain an erroneous provision regarding a non-parent legal guardian's eligibility for immigration relief. ILRC notes that the proposed instructions for the Form I-360 include misleading language under the law regarding certain restrictions pertaining to legal guardians or custodians. The proposed instructions note that the natural or prior adoptive parents of the special immigrant juvenile cannot receive any immigration benefit based on their relationship to the juvenile, which includes "legal guardians or custodians of the SIJ petitioner pursuant to the juvenile court order submitted in support of the SIJ petition."<sup>2</sup> Under the law, the restriction is limited to any "natural parent or prior adoptive parent," and does not create a bar on the legal guardian or custodian deriving an immigration benefit from the juvenile (which is unlikely anyway since a legal guardian or custodian is not a "parent" under the INA).<sup>3</sup> It is imperative that USCIS corrects or provides clarification to the instructions to accurately reflect the statute and to avoid creating confusion for petitioners. We suggest the following language be added to the instructions:

*Pursuant to INA section 101(a)(27)(J)(iii)(II), 8 U.S.C. section 1101(a)(27)(J)(iii)(II), the natural or prior adoptive parents of an SIJ cannot receive any immigration benefit based on their relationship to the SIJ, even after the SIJ becomes a lawful permanent resident and later naturalizes. This restriction includes all of the SIJ's natural and prior adoptive parents, ~~including those who~~ **even those who** are the legal guardians or custodians of the SIJ petitioner pursuant to the juvenile court order submitted in support of the SIJ petition.*

Please reach out to Elizabeth Taufa, [etaufa@ilrc.org](mailto:etaufa@ilrc.org), with any questions.

Sincerely,

Ann Block, Senior Staff Attorney  
Ariel Brown, Senior Staff Attorney  
Veronica Garcia, Staff Attorney  
Rachel Prandini, Managing Attorney  
Elizabeth Taufa, Senior Policy Attorney and Strategist  
Miosotti Tenecora, Staff Attorney

Immigrant Legal Resource Center

---

<sup>1</sup> ILRC, ILRC Comment on Proposed I-360, October 15, 2024, available at <https://www.ilrc.org/resources/ilrc-comment-proposed-form-i-360>.

<sup>2</sup> Page 12 of I-360 Redline Instructions available on regulations.gov.

<sup>3</sup> 8 U.S.C. § 1101(a)(27)(J)(iii)(II).