CATHOLIC LEGAL IMMIGRATION NETWORK, INC.

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Submitted online via regulations.gov

August 24, 2020

Samantha Deshommes
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: Docket ID number USCIS–2009–0020; OMB Control Number: 1615–0023; Agency Information Collection Activities; Revision of a Currently Approved Collection; Extension: Application to Register Permanent Residence or Adjustment of Status

Dear Ms. Deshommes,

The Catholic Legal Immigration Network, Inc. (CLINIC) respectfully submits the following comments in connection with the Department of Homeland Security's (DHS) Notice of Information Collection published in the Federal Register on July 25, 2020.

Embracing the gospel value of welcoming the stranger, CLINIC promotes the dignity and protects the rights of immigrants in partnership with a dedicated network of immigration legal services programs. This network includes approximately 380 programs operating in 48 states and the District of Columbia. CLINIC's network employs roughly 1,400 attorneys and accredited representatives who, in turn, serve hundreds of thousands of low-income immigrants each year. Over 90 percent of CLINIC's affiliates offer family-based immigration services, including assistance with applications for adjustment of status to lawful permanent residency.

U.S. immigration policy reflects the importance of family reunification. Of the 1,096,611 foreign nationals admitted to the United States in FY2018 as lawful permanent residents (LPRs), almost 70 percent were admitted based on family ties. Similarly, the sanctity of the family is a dominant element of Catholic social teaching and a high priority of the Catholic Church. Accordingly, CLINIC supports immigration policies and procedures that promote and facilitate family unity and welcomes changes to the immigrant visa process that assist families in obtaining this immigration benefit. Our values are best expressed by Pope John XXIII who wrote in Pacem in Terris, "Now among the rights of a human person there must be included that by which a man may enter a political community where he hopes he can more fittingly provide a future for himself and his dependents. Wherefore, as far as the common good rightly understood permits, it is the duty of that state to accept such immigrants and to help to integrate them into itself as new members."

CLINIC provides the following comments to the proposed Form I-485, Application to Register Permanent Residence or Adjust Status:

Part 1. Information About You

Question #32b includes "Cuban parole" as an option in the parenthetical. All persons who are paroled for humanitarian reasons are paroled under INA § 212(d)(5). There is no separate classification for Cubans who are paroled into the country. Therefore, CLINIC recommends that USCIS delete the words "Cuban parole."

Part 2. Application Type or Filing Category

Question #4a, Religious Worker, contains a typo. The number "360" is written twice.

Questions #1 and #13 are duplicative. Questions regarding whether the applicant is a principal or derivative beneficiary, and questions about the principal, should all be in the same place on the form.

Part 3. Additional Information About You

Question #1 reads: "Have you ever applied for an immigrant visa to obtain permanent resident status at a U.S. embassy or U.S. consulate abroad *to obtain permanent resident status*" [added language in italics]. The proposed added language is redundant and should be deleted. USCIS should also delete the word "abroad," since all U.S. embassies and consulates are located abroad.

Part 8 – General Eligibility and Inadmissibility Grounds

Questions #29 – 33 relate to possible immigration violations in countries other than the United States and are not relevant to inadmissibility under INA § 212(a). They also use terms such as "employment authorization (or the equivalent)," "unlawful presence (or the equivalent)," "removal, deportation, or exclusion proceedings (or the equivalent)," and "ordered removed, deported, or excluded (or the equivalent)." It is unreasonable to ask applicants for adjustment of status whether terms used in U.S. law have any equivalency in the laws of other countries, especially when they have no bearing on the applicant's admissibility. CLINIC strongly recommends that these questions be deleted.

Question #71 asks if the applicant is exempt from the public charge ground of inadmissibility. It refers the applicant to the Form I-485 Instructions. The Instructions, on page 14, state that if the applicant is exempt from the public charge ground of inadmissibility, he or she does not need to submit either a Form I-944 or an I-864. It then lists the 19 categories of applicants who are exempt, from A through S. These include applicants granted U status, T status, and VAWA self-petitioners. This means that these applicants do not need to submit an I-864.

The current Form I-485 states that "if you answered 'Yes' to" the question of being exempt from public charge, then the applicant should skip the next questions regarding the affidavit of support (Questions #62a-n). This is logical, except on the current form the questions regarding exemption from the affidavit of support include categories exempt from public charge. If the applicant is

exempt from public charge, he or she is exempt from the affidavit of support and therefore should have skipped this question.

Many practitioners are therefore confused as to whether they need to indicate that the applicant is exempt from the I-864 if they are exempt from public charge. For example, one exemption from the affidavit of support is because "I am applying under the human trafficking victim (T nonimmigrant) immigrant category." (Question #62f). Another exemption from the affidavit of support is because "I am applying under the victim of qualifying criminal activity (U nonimmigrant) immigrant category." (Question #62h). As indicated in the Instructions, both T and U nonimmigrants are exempt from public charge and therefore should not be answering question #62. What compounds the confusion is that Question #62 does not include a similar I-864 exemption for VAWA applicants. They are also exempt from public charge and should not be included in #62, but it is inconsistent to include U and T nonimmigrants and not VAWA recipients. The simple remedy, therefore, would be to delete current Questions #62f and #62g rather than to add a separate category for VAWA applicants.

Unfortunately, the proposed I-485 misses this opportunity. Instead, the proposed Question #71 deletes the language from current Question #61 stating that if the applicant is exempt from public charge, he or she should skip over the next questions as to whether he or she should file an I-864. The result is that applicants who are exempt from public charge and who have stated that in Question #71 must now explain why they are exempt from filing the I-864. Again, everyone exempt from public charge is exempt from the affidavit of support. But Questions #72a-n include applicants who are both exempt from public charge and those who are subject to it but exempt from the affidavit of support. It merges two distinct requirements or exemptions. Rather than eliminating the confusion with the current form, it actually compounds it. CLINIC recommends maintaining the current language on the Form I-485 but eliminating questions #62f and g.

In the alternative, CLINIC recommends the following changes to the proposed Form I-485, Question #72, under the *Heading Affidavit of Support under Section 213A of the INA (Form I-864)*:

- Insert: "If you are exempt from public charge, you do not need to file a Form I-864" before the words "You may need to file Form I-864."
- Change: "You may need to file Form I-864" to "If you are subject to public charge, you need to file a Form I-864 unless you are exempt under one of these categories."
- Change: "I am EXEMPT from filing Form I-864 because:" to "I am subject to public charge but EXEMPT from filing Form I-864 because:"
- Delete all text contained in Questions #72f and h. These categories pertain to U and T nonimmigrants who are not subject to public charge.
- Delete all text contained in Questions #72g and i. To the extent there are any T and U nonimmigrants who are applying to adjust based on some other immigration category (e.g., an approved family-based petition), their exemption from public charge or the affidavit of support would be based on the immigration category they are applying under.
- Delete the text in Question #72j. If the applicant is exempt from public charge, it is unnecessary to indicate that he or she is also exempt from filing the affidavit of support.

- Delete the text in Question #72o. This pertains to Amerasians, who are exempt from public charge.

CLINIC provides the following comments to the proposed Instructions for Application to Register Permanent Residence or Adjust Status:

There is an inconsistency between proposed Instructions and the proposed I-485. On page 5 the Instructions it states that USCIS *may* require the applicant to complete biometrics. On page 10 of the proposed Form I-485 it states that the applicant *will* be required to appear for a biometrics appointment. If the Form I-485 will be changed, then the instructions should be consistent.

On page 18, under what documentation to include if an applicant is unable to obtain certified copies of court dispositions, the instructions are confusing. Being required to submit all three of the documents below is duplicative and overly burdensome. The language reads:

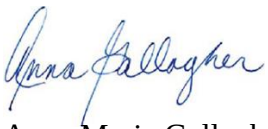
"If you are not able to obtain certified copies of any court disposition please submit ALL THREE items below:

- A written explanation on government letterhead from the custodian of the documents explaining why it is unavailable (unless generally unavailable);
- Written statement from the applicant that explains why the record is not available and describes the charge, arrest/conviction, and final outcome, rehabilitation; and
- Any other secondary evidence that shows the disposition of the criminal case; or if secondary evidence is not available, one or more written statements from someone other than the applicant with personal knowledge of the disposition."

If the custodian of the records provides a letter explaining why records are not available, there is no need to require a statement from the applicant explaining the same issue. Similarly, if the applicant can provide a statement explaining the charge and final outcome of the case, signed under penalty of perjury, the applicant should not be required to obtain a statement containing the same information from another witness.

Thank you for the opportunity to submit these comments. We appreciate your consideration. Please do not hesitate to contact Jill Marie Bussey, CLINIC's Advocacy Director, at jbussey@cliniclegal.org should you have any questions about our comments or require further information.

Sincerely,



Anna Marie Gallagher
Executive Director