

Supporting Statement Appendix A: Form I-601 60-Day Comment Summary

Commenter #1 states: Waivers under this section should include spouses of American citizens who committed just one possession of a very small amount of controlled substances in the past and who can prove they are totally rehabilitated. Specially if the state dismissed the charge and no longer exists on the record and not even time served in jail. State often offers them a program where they have to plea guilty in order to be dismissed the charge and this is what is not allowing good people to have a second chance even if they are married to a US citizen for a long time, who also have US citizen kids and that only one mistake occurred 10 or more years ago and are contributing with the society, paying taxes, having their own companies and even most of them are leaders in their churches. Thanks.

Waivers of inadmissibility are codified in INA 212. USCIS can only waive grounds of inadmissibility that are specified in the INA. This suggestion requires a statutory change that cannot be accomplished through a form update.

Commenter #2 states:

Clarify That SIJs Need Not Have a Qualifying Relative to Obtain a Waiver of Inadmissibility Under INA §245(h).

In response to commenter's suggestion that USCIS clarify that SIJs need not have a qualifying relative, USCIS has amended the instructions accordingly.

Allow SIJs Seeking Waivers Under INA §245(h) to Skip the I-601 Section Gathering Qualifying Relative Information.

In response to commenter's suggestion that USCIS should indicate that an SIJ does not need to complete Part 5, USCIS has amended the instructions accordingly and added a similar note on the form.

Clarify that SIJs Need Not Provide Specific Information About Other Relatives With Ties to the United States.

In response to commenter's suggestion that USCIS clarify that SIJs need not provide specific information about other relatives with ties to the United States, USCIS declines to adopt this suggestion. USCIS believes this issue is sufficiently clarified. The form asks for information of relatives with ties to the United States that an applicant would like considered in deciding the applicant's case. The form does not require that an applicant must provide information on relatives. The instructions already clarify that USCIS does not consider the relationship to natural parents or prior adoptive parents when making a decision on the waiver application. Therefore, no changes will be made based on this suggestion as the SIJ can skip this section if he or she chooses to.

Clarify Where SIJs Should Provide Information Relevant to "Humanitarian Purposes, Family Unity, or Other Reasons in the Public Interest".

In response to commenter’s suggestion that USCIS clarify where SIJs should provide information relevant to humanitarian purposes, family unity, or other reasons in the public interest, USCIS incorporated this suggestion into the section describing what evidence you must submit. USCIS added into the instructions “Note: If you are filing as an SIJ, and seeking a waiver under INA 245(h), you may explain in Part 6. Item Number 9., why your waiver should be granted for humanitarian purposes, family unity, or other reasons in the public interest. “

Correct the Error in the Description of Inadmissibility Grounds Waivable for SIJs.

In response to commenter’s suggestion that USCIS correct the error in the description of inadmissibility grounds waivable for SIJs, USCIS has made edits to clarify that the grounds cannot be waived under INA 245(h). The Policy Manual lists which grounds of inadmissibility cannot be waived under the SIJ-specific waiver for such purposes. While there may be other waiver authorities in the INA to overcome one or more of these grounds of inadmissibility, the basis for the immigration benefit would have to be independent of the SIJ adjustment category.