



ADVISORY BOARD

Hon. John Burton
Hon. Nancy Pelosi

BOARD OF DIRECTORS

Cynthia Alvarez
Richard Boswell
W. Hardy Callcott
Aidin Castillo
Eva Grove
Bill Ong Hing
Luca D. Mangini
Anita Martinez
Michelle Mercer
Toni Rembe
Rudy Ruano
Guadalupe Sordia-Ortiz
Lisa Spiegel
Alan Tafapolsky
Mawuena Tendar
Hon. James L. Warren (Ret.)
Allen S. Weiner
Roger Wu

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

500 Sixth Street
Suite 204
San Antonio, TX 78215

Austin

6633 East Hwy 290
Suite 102
Austin, TX 78723

ilrc@ilrc.org
www.ilrc.org



October 26, 2022

Ur Jaddou, Director
Amanda Baran, Chief, Office of Policy and Strategy
United States Citizenship and Immigration Services
5900 Capital Gateway Drive
Camp Springs, MD 20588

Re: ILRC commends recent changes to Form N-648, Medical Certification for Disability Exceptions

Dear Director Jaddou and Ms. Baran,

We write to commend USCIS on the October 19, 2022 release of the updated Form N-648, Medical Certification for Disability Exceptions. We will file separate comments on the accompanying changes to the Policy Manual, which are also positive.

These changes are a welcome development for advocates who represent naturalization applicants with disabilities, and we hope that the changes will allow for better protections for this vulnerable population. We note with gratitude that many of the changes included in the updated form and Policy Manual guidance were changes suggested by the ILRC and our partners in the Naturalization Working Group. We thank you for your willingness to listen to stakeholders.

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 also convenes the New Americans Campaign (NAC), a national non-partisan effort that brings together private philanthropic funders, leading national immigration, and service organizations, and over two hundred local services providers across more than 20 different regions to help prospective Americans apply for U.S. citizenship. Through our extensive networks with service providers, immigration practitioners, and naturalization applicants, we have developed a profound understanding of the barriers faced by low-income individuals seeking to obtain immigration benefits and the barriers that affect applicants who require a disability waiver.

We applaud the agency's work in the area of disability waivers. The updated N-648 is a vast improvement over the previous version of the form because it is shorter and clearer. The new version aligns with the statutory and regulatory requirements. The form eliminates redundancies

and is much friendlier to medical providers. It is our hope that this new version of the form will be clearer for providers and will encourage them to assist applicants with disabilities where the previous length and complexity of the form caused hesitation. Immigration forms are often intimidating for non-immigration practitioners and having a more concise form will ensure that eligible applicants are able to obtain certification more easily. These positive changes mean that applicants are less likely to be denied for reasons that do not comport with the statutory and regulatory requirements for a naturalization disability waiver.

In particular, we thank USCIS for removing the questions regarding the effect of the disability on the applicant's daily life including the ability to work or go to school, which exceeded the statutory and regulatory requirements for a disability waiver. We also approve of the deletion of questions which required the medical professional to show that they were the regularly treating physician of the applicant. Practitioners have reported this as an issue in adjudications for years and we are grateful for the clarification from USCIS. Additionally, the inclusion of telehealth guidance is a welcome change given the increased use of tele-medicine during the COVID-19 pandemic. Also, we appreciate the change in the instructions that states that the N-648 "should" be submitted together with the N-400, rather than stating that it "must" be concurrently filed, because applicants may have a change in circumstances or representation that cause them to file such a waiver after the N-400 in some cases.

However, as stated in our comments to the proposed form,¹ we remain concerned by the addition of a question asking the medical professional to make a judgement on the applicant's ability to understand the oath of allegiance for naturalization. This question was added to the N-648 in Part 4, Question 1: "Is the applicant able to understand and communicate that they understand the meaning of the Oath of Allegiance to the United States?"

The medical certifier will have no professional knowledge of what the oath contains or what an oath waiver entails, nor how an oath may legally be modified or simplified for an appropriate applicant. The question of the oath waiver has never been included in the N-648 before, as it is based on a separate law and is requested through a separate process.

Congress intended to make an oath waiver available to disabled applicants by explicitly changing the statute to allow that in 2000.² This was an entirely separate law than the 1994 naturalization disability waiver that can waive the English/Civics requirement.³ These two laws should not be conflated by asking a medical professional who is required to assess the ability to learn English and/or civics to also judge whether an oath of allegiance can be understood, thus determining whether an oath waiver is needed.

The addition of this question will likely lead to many unnecessary oath waiver requests. If an oath waiver is requested the applicant will need to have a qualifying U.S. citizen relative who is also a primary caregiver or a court-ordered legal guardian, surrogate or designated representative act on their behalf.⁴ Many applicants do not have one of the limited U.S. citizen relatives currently allowed by the USCIS Policy Manual to act for them in this process, nor do they have the time or funds available to go through a lengthy court-ordered guardian or representative process.

¹ Naturalization Working Group, *Advocacy Comment on the N-648 Naturalization Disability Waiver Form*, November 9, 2021, <https://www.ilrc.org/advocacy-comment-n-648-naturalization-disability>.

² INA § 337(a). Pub. L. 106-448 (July 12, 2000).

³ INA 312(b)(1). Section 108 of the Immigration and Nationality Technical Corrections Act of 1994, Pub. L. 103-416 (Oct. 25, 1994).

⁴ This limited list of persons who can act in place of a disabled applicant are in 12 USCIS-PM C.3.A.4 and 12 USCIS-PM J.3.C.2.

We recommend that USCIS eliminate the question about the oath of allegiance from the N-648, since the waiver of the English/civics requirement is the focus of this form, and the underlying law is separate from that of the oath requirement and its waiver.

Again, we appreciate the work being done at USCIS to strengthen access to disability waivers and commend the agency for these changes.

Sincerely,

Peggy Gleason
Senior Staff Attorney

and

Elizabeth Taufa
Policy Attorney and Strategist

on behalf of:
Immigrant Legal Resource Center