



NATURALIZATION FOR PERSONS WITH DISABILITIES

By Peggy Gleason

I. Introduction

This practice advisory describes how persons with disabilities can navigate the process of applying for naturalization through accommodations or with a disability waiver. Qualifying applicants can also seek a waiver of the oath requirement if their disability prevents them from comprehending or communicating understanding of the naturalization oath.¹

The advisory describes the English and civics requirement for naturalization and will help practitioners determine who may be qualified to entirely waive either the English or civics requirement, or both, based on a physical, mental, or developmental disability by filing a U.S. Citizenship and Immigration Services (USCIS) Form N-648, Medical Certification for Disability Exceptions. It will also describe who can seek a modification of this requirement based on their age and their total number of years as a Lawful Permanent Resident (LPR).

In addition, an applicant may be entitled to an accommodation that will modify the naturalization process and testing. An accommodation does not exempt applicants from the normal requirements for naturalization, but it can change the way a USCIS officer conducts the process.

¹ Contact the author at pgleason@ilrc.org. Many thanks to Hebrew Immigrant Aid Society (HIAS) Philadelphia, Catholic Legal Immigration Network (CLINIC), Jewish Family and Children's Services (JFCS) San Francisco, California Rural Legal Assistance Foundation (CRLAF), and the Michigan Immigrant Rights Center (MIRC) for sharing their examples and best practices.

Note: On October 6, 2021, USCIS published a notice in the Federal Register inviting comments on a proposed revision of the Form N-648 Medical Certification for Disability Exception.² The proposed revisions were at the U.S. Office of Management and Budget as of June 2022 and are expected to be published soon. ILRC will monitor developments and update this practice advisory when there are final changes to the N-648.

II. The English and Civics Requirement for Naturalization

One of the requirements for naturalization is that an applicant demonstrate knowledge of the English language and U.S. history and government, the latter referred to as the civics requirement.³ Ability to and speak and understand English words in “ordinary usage” is evaluated throughout the naturalization interview. Reading and writing abilities are assessed by the USCIS officer dictating three sentences to write and three sentences to read. The applicant must be able to answer at least one of the three correctly.⁴

USCIS administers the civics test by asking applicants up to ten questions of a prescribed list of one hundred questions. Applicants must be able to answer six correctly.⁵

² U.S. Department of Homeland Security (DHS), USCIS, Agency Information Collection Activities: Revision of a Currently Approved Collection; Medical Certification for Disability Exceptions, 86 Fed. Reg. 55630 (Oct. 6, 2019). See the Naturalization Working Group (NWG) and ILRC’s advocacy comment regarding the proposed changes to the form, (Nov. 2021), <https://www.ilrc.org/advanced-search?terms=N-648>. The proposed changes are positive developments as they shorten the form and eliminate redundant and irrelevant questions.

³ 8 C.F.R. §§ 312.1 and 312.2.

⁴ Note that USCIS attempted to increase the difficulty of the English/civics test for naturalization on December 1, 2020, by increasing the number of possible questions from 100 to 128, and by requiring 10 correct answers out of 12. These changes were reversed on February 22, 2021, and currently the prior 2008 version of the test is in effect. USCIS, Policy Alert, Revising Guidance on Naturalization Civics Examination, (Feb. 22, 2021),

<https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20210222-CivicsTest.pdf>, and 12 USCIS Policy Manual (PM) E.2, <https://www.uscis.gov/policy-manual/volume-12-part-e>.

⁵ USCIS officers are required to repeat and rephrase questions throughout the interview, and errors that do not prevent general understanding of a sentence should be acceptable. In addition, the ability to understand English will not be based on the ability to define a word or phrase found on the Form N-400. For more detail on how the English/civics skilled should be assessed by the interviewer see USCIS, Scoring Guidelines for the U.S. Naturalization Test, (Dec. 15, 2021),

https://www.uscis.gov/sites/default/files/document/guides/Test_Scoring_Guidelines.pdf.

The applicant's ability to understand is also assessed during the naturalization interview as the interviewing USCIS officer gives directions or asks questions. USCIS's web site has extensive materials to help prepare applicants for the English and civics exam.⁶

III. Modifications to the English and Civics Requirements

Modifications to the English test are allowed for older persons who have been LPRs for many years. An applicant who is 55 years or older and has been an LPR for 15 years, or an applicant who is 50 years of age or older and has been an LPR for 20 years can qualify for this exception to the English requirement and can proceed in the interview with an interpreter in their own language.⁷ The applicant must provide their own interpreter.

There is also an easier version of the civics test available for applicants aged 65 years or older who have been LPRs for at least 20 years. For this group, the pool of possible civics questions will be only 20 questions instead of the usual 100 questions. Applicants must answer six questions correctly.⁸

In addition, there is a regulation that allows USCIS officers discretion to exercise "due consideration" in the administering the civics test in phrasing, choosing subject matters, and evaluating responses, depending on the applicant's educational background, age, length of U.S. residence, opportunities available to learn and efforts made to acquire the knowledge of civics, and other relevant factors.⁹

IV. Accommodations under Section 504 of the Rehabilitation Act of 1973

Applicants can seek a change in the process of the English and civics exam by means of a "reasonable accommodation." Unlike the naturalization disability waiver (described below) which can provide qualified persons with an exception to either or both of the English and civics requirements, the accommodation does not remove the English and civics requirement, but it alters how USCIS administers the naturalization interview overall. Since the 1973 enactment of the Rehabilitation Act, the "reasonable accommodation" requirement applies to all executive

⁶ There are useful vocabulary lists for reading and writing and the 100 possible civics questions in English and in translations on www.uscis.gov.

⁷ INA § 312(b)(2), 8 C.F.R. § 312.1(b)(2), 12 USCIS PM-B. Applicants aged 55 or over and age 50 or older on the date of filing for naturalization who meet the durational requirements can qualify for the English exemption.

⁸ INA § 312(b)(3), 12 USCIS-PM E.2.

⁹ 8 C.F.R. § 312.2

agencies serving the public, including USCIS, ensuring that no person will be denied access to a benefit or subjected to discrimination because of a disability.¹⁰ If an accommodation is denied unreasonably, there is a complaint process available through the U.S. Department of Homeland Security (DHS) Office of Civil Rights and Civil Liberties.¹¹

In addition to the DHS and USCIS regulations¹² on accommodations, the USCIS Policy Manual describes accommodations in detail.¹³

USCIS must make reasonable accommodations to the naturalization process for applicants with disabilities so that they can successfully complete the process. A naturalization applicant who requests an accommodation must still take and pass an English and civics test unless they also have a qualifying disability waiver. A reasonable accommodation is one that does not fundamentally alter the naturalization process or create an undue burden on the agency.

Applicants can request an accommodation at any time, but if preparation is required by the agency, such as with a request for a home or institutional visit, or for a sign language interpreter, then advance notice is reasonable. Applicants can make the request on the N-400 naturalization application form, online with USCIS, or by calling the USCIS contact center.¹⁴ An accommodation in the naturalization process may impact how the interview is conducted or how the test is administered.

The USCIS Policy Manual has a non-exhaustive list of accommodations, including extending time for the naturalization examination, providing sign language interpreters, allowing relatives or others to attend the interview, allowing nonverbal communication, providing reading tests in large print or braille, or scheduling off-site exams. Allowing relatives and others to attend a naturalization exam and assist applicant in signing forms can help some applicants remain calm and responsive. The accompanying person can re-phrase the officer's questions if helpful to the applicant or help an applicant to sign, initial, or make a mark when completing an attestation.

¹⁰ Section 504 of the Rehabilitation Act of 1973 provides that, "No otherwise qualified individual with a disability in the United States...shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subject to discrimination...under any program or activity conducted by an Executive Agency," 29 U.S.C. § 794(a). DHS, which includes USCIS, has its own implementing regulations for accommodations. 6 C.F.R. § 15.30.

¹¹ The DHS Office of Civil Rights and Civil Liberties has an online complaint form at <https://www.dhs.gov/topics/civil-rights-and-civil-liberties> .

¹² 6 C.F.R. § 15.30, 8 C.F.R. § 334.4.

¹³ 12 USCIS-PM C.1-3.

¹⁴ Part 3 on the USCIS Form N-400 requests information about accommodations needed. The USCIS Contact center will also receive accommodation requests at 1-800-375-5283.

If an accommodation for a disability requires that the applicant cannot appear in person and give testimony for naturalization or perform the oath, then USCIS will allow a legal guardian, surrogate, or certain relatives who are a designated representative to act on the applicant's behalf.¹⁵ A legal guardian in such instances must have documentation from a court proving guardianship or status as a surrogate. If there is no legal guardian or surrogate, then a U.S. citizen spouse, parent, adult son or daughter, or adult brother or sister who is the primary custodial caregiver and takes responsibility for the applicant may appear on their behalf in the naturalization process. Applicants must present documentation that the guardian or designated representative meets these qualifications. USCIS introduced this limited list of persons who can substitute for a disabled applicant in its Policy Manual. The restriction does not have a statutory or regulatory basis. These limits will prevent some otherwise eligible applicants from naturalizing as they may not have any U.S. citizen relatives who are primary caregivers, nor do they have the time and funds needed to go through a court-ordered guardianship process.¹⁶

V. The Requirements for the N-648 Disability Waiver

Some naturalization applicants may need more than an accommodation to complete the naturalization process. An applicant who is unable to comply with the English literacy requirement or knowledge of civics because of a “physical or developmental disability” or a “mental impairment” is entitled to have these requirements waived. Congress changed the INA in 1994 to include this waiver, and regulations were published in 1997.¹⁷

The naturalization disability waiver provides an exception for certain applicants who cannot meet the English and civics requirements because of a physical or developmental disability or mental impairment.¹⁸ The waiver is described below.

Note: There is now voluminous guidance on disability waivers in USCIS's Policy Manual, administrative interpretations that have been frequently revised without any formal public notice and comment process. In 2018 and again in 2020, USCIS added restrictive language to the Policy Manual that added new requirements for the naturalization disability waiver. The added guidance greatly expanded the grounds for denying an N-648 by creating 14 factors that give rise to “credible doubt” including: the medical professional did not provide sufficient detail about

¹⁵ 12 USCIS-PM C.3(A)(4).

¹⁶ See ILRC, Advocacy Letter on Oath Waiver and Accommodations for Naturalization Applicants with Disabilities (June 2022), <https://www.ilrc.org/ilrc-advocacy-letter-oath-waiver-and-accommodations-naturalization-applicants-disabilities>.

¹⁷ 8 C.F.R. § 312.1(b)(3); 8 C.F.R. § 312.2(b).

¹⁸ INA § 312(b)(1). Section 108 of the Immigration and Nationality Technical Corrections Act of 1994, Pub. L. 103-416 (Oct. 25, 1994).

the doctor-patient relationship; the applicant's daily life such as employment capability and ability to attend educational programs is inconsistent; the applicant failed to justify late or multiple filings of an N-648; and "any other articulable grounds that are supported by the record."¹⁹

Practice Tip: The USCIS Form N-648 is used to apply for the disability waiver. The form as well as the guidance in the USCIS Policy Manual has been frequently revised. The current version of the form is dated July 23, 2020. Changes that had been made to the form in 2019 and 2020 brought the form to its current length of 9 pages and increased the number of questions from 12 to 23.²⁰ It includes a long series of repetitive questions about onset and diagnosis dates, solicits irrelevant biographic information, and includes questions that go beyond the statute and regulations to query applicants about activities of daily living.²¹ On October 6, 2021, USCIS published a Federal Register notice requesting comments on a revised version of the N-648.²² This proposed version would shorten and simplify the form, eliminating irrelevant questions and clarifying instructions on the form itself. At present, the July 23, 2020, version of the N-648 remains in use. USCIS estimates that it takes 2.42 hours to complete the current form, while practitioners report that it takes much longer and often requires multiple visits to medical professionals to answer all the questions.

¹⁹ These changes were made to 12 USCIS-PM E.3, "Sufficiency of Medical Certification for Disability Exceptions (N-648)" on Dec. 12, 2018, and to 12 USCIS-PM E.3 on Dec. 4, 2020, "Properly Completed Medical Certification for Disability Exception" (N-648).

²⁰ DHS, USCIS, Agency Information Collection Activities; Revision of a Currently Approved Collection; Medical Certification for Disability Exceptions, 84 Fed. Reg. 17870 (April 26, 2019).

²¹ USCIS, Form N-648, Medical Certification for Disability Exceptions (Edition July 23, 2020). In Part 3, Question 8 the form asks the medical professional "Describe how each relevant disability and/or impairment affects specific functions of the applicant's daily life, including the ability to work or go to school...". ILRC believes this question goes beyond the statutory and regulatory requirements for a naturalization disability waiver, which is based on a particular diagnosis and its connection to the ability to learn English and civics, not on the ability to work or go to school. USCIS is conflating the naturalization disability standard with the different standard applied to Social Security disability benefits, which is centered on a review of applicant's ability to work due to the effect of the impairment. See Social Security Administration, Social Security Disability Benefits, How You Qualify, (2022) <https://www.ssa.gov/benefits/disability/qualify.html#anchor3>. For more detail on the N-648 changes see the Naturalization Working Group's Advocacy Comment on the N-648 and Policy Manual (Nov. 9, 2021) <https://www.ilrc.org/advocacy-comment-n-648-naturalization-disability>.

²² DHS, USCIS, Agency Information Collection Activities; Revision of a Currently Approved Collection; Medical Certification for Disability Exception; 86 Fed. Reg. 55630 (Oct. 6, 2021).

According to the statute and regulations, the naturalization disability waiver requirements are:

1. The applicant has a physical, developmental, or mental impairment, or combination of impairments.
2. The impairment is medically determinable.
3. The disability or impairment(s) have lasted or are expected to last at least 12 months.
4. The applicant is unable to meet the English and/or civics requirement because of the impairment(s).
5. The loss of cognitive skills is not based on the direct effects of illegal drug use.

The disability must be “medically determinable” and either have lasted or be expected to last at least 12 months. There is no finite list of possible impairments for the waiver. Typical physical impairments include general medical conditions such as diabetes, cancer, stroke, heart disease, blindness, or deafness. Developmental impairments are conditions that arose before adulthood and usually last through the person’s life, such as cerebral palsy, autism, or Down syndrome. Mental impairments that affect the ability to think and reason clearly could include Alzheimer’s disease, post-traumatic stress disorder (PTSD), severe depression, dementia, schizophrenia, or bipolar disorder. Impairments can have a combined effect that can support a disability waiver in some cases. Whatever the condition is, the medical professional must find that the effect is that the applicant cannot learn English and civics. It is not sufficient to qualify for a waiver if the medical professional finds that it is merely “difficult” for the applicant to learn English and civics.

Impairments that are usually not approved for disability waivers include age-related conditions of forgetfulness, an unspecified learning disability, or illiteracy. Hearing or sight impairments are usually approached with an accommodation request rather than a disability waiver in many cases.

A cognitive disability will not support a waiver if it is due to the direct effects of illegal drug use. The impairment should be verified by medically acceptable clinical or laboratory diagnostic techniques.²³ By regulation, only a medical doctor, osteopathic doctor, or a clinical psychologist who is licensed in the United States (or a U.S. territory) can sign the N-648 form. A nurse practitioner, social worker, or other health worker might assist the medical professional, but the signature must be from the doctor. The medical professional should be experienced in

²³ INA § 312(b); 8 C.F.R. § 312.1(b)(3), 8 C.F.R. § 312.2(b).

diagnosing persons with physical or mental medically determinable impairments, and must describe the origin, nature, and extent of the impairment.²⁴

The medical professional must list the clinical methods used to arrive at the diagnosis. USCIS's guidance requires a medical code "as accepted by the Department of Health and Human Services (HHS)."²⁵ The clinical diagnosis that is the grounds for the disability waiver should have a code from the Diagnostic and Statistical Manual of Mental Disorders (DSM) or the International Classification of Diseases (ICD).²⁶ According to USCIS's instructions, the disability waiver form must be completed no longer than 6 months before the form is submitted.

The medical professional must show the nexus between the disability and the applicant's inability to meet the English and civics requirement. This means that the doctor must explain how the disability, or a combination of impairments, render the applicant unable to learn English or to acquire the required knowledge of civics. The causal connection between the impairment and the inability to learn English or civics must be established by a preponderance of the evidence. This is a burden that the applicant must meet, and it means that they are able to establish that there is a greater than 50 percent chance that the statement made is true.²⁷

Example: This applicant first filed a disability waiver in 2017 which was denied. Question 10 on the N-648 regarding the nexus between the impairment and the ability to learn stated:

"Mr. X is a 79-year-old patient suffering from several cardiovascular problems, many of them chronic and which have affected his entire body through a weakened cardiovascular system and decreased oxygen levels to vital organs. These decreased oxygen levels significantly impact cognitive functioning, his ability to concentrate, focus, learn, memorize, recall, and retain new information. In other words, it is extremely difficult for Mr. X to learn, understand, memorize, and retain a new language (English) and information regarding U.S. history and civics."

²⁴ 8 C.F.R. § 312.1(b)(3), 8 C.F.R. § 312.2(b)(2)

²⁵ USCIS, N-648, Medical Certification for Disability Exceptions. The instructions for the form give this example, "For example, DSM-V 318.1 Intellectual Disability (Severe) or 2015/2016 ICD-10-CM F72 Severe intellectual disabilities."

²⁶ Typical diagnoses with disability waivers include, for example: Dementia, Vascular Neurocognitive Disorder/Stroke DSM-V (fifth edition) 290.40, Dementia Neurocognitive Disorders due to Alzheimer's DSM-V 294.10-11, Schizophrenia DSM-V 295.40-295.70, or Posttraumatic Stress Disorder DSM-V 309.81.

²⁷ 12 USCIS-PM E.3(E)(2).

This applicant filed a new N-648 and N-400 a year later, and it was approved. The doctor stated on Question 10:

“Mr. X is an 80-year-old patient suffering from several cardiovascular problems, many of them chronic and which have affected his entire body through a weakened cardiovascular system and decreased oxygen levels to vital organs. These decreased oxygen levels significantly impact cognitive functioning, his ability to concentrate, focus, learn, memorize, recall, and retain new information. In other words, it is impossible for Mr. X to learn, understand, memorize, and retain a new language (English) and information regarding U.S. history and civics. It is my professional opinion that Mr. X’s impairments will preclude him from taking the English and civics test.”

The USCIS Policy Manual directs that the medical professional must conduct at least one in-person exam of the applicant.²⁸ USCIS requires the medical professional to provide the diagnosis, and even when technical codes are used, they should also describe the impairment and its impact “using common terminology that a person without medical training can understand.”²⁹ As one experienced advocate put it, the N-648 must have the technical condition specified by the DSM or ICD and also should be explained in language that a 7 year-old could understand.

Example: Applicant’s condition results from an ischemic stroke (medical term). This means his brain suffered a restriction in blood supply and oxygen causing permanent brain injury (plain English).

Successful completion of the N-648 is an arduous process that has been made more difficult in recent years by language added to the form and to the USCIS Policy Manual that is restrictive and beyond the requirements of the statute and regulations. The current version of the N-648 published in July 2020 requires information about activities of daily living such as work and education.³⁰ It is a long form, with 9 pages of information to be completed and 5 pages of instructions. Advocates report that many USCIS officers have long queries on the applicants’

²⁸ With the arrival of the COVID-19 pandemic in March 2020, telemedicine often became routine, especially for vulnerable patients. Some practitioners report that they have been able to have disability waivers approved for persons who have had telemedicine follow-up appointments with a medical specialist, after having an initial appointment in-person with a medical professional.

²⁹ 12 USCIS-PM E.3(D).

³⁰ USCIS, N-648, Medical Certification for Disability Exceptions, Part 3 asks how the impairment affects applicant’s daily life, including the ability to work or go to school. Practitioners report that USCIS officers will query applicants about jobs, ability to take transportation, or manage daily life and sometimes deny waivers despite qualifying medical diagnoses.

employment and ability to manage some activities, such as taking public transportation, and use that as a basis to challenge an otherwise qualifying medical diagnosis of disability. Advocates should point out that having a job is not necessarily inconsistent with being able to learn English or civics, as it may be a job that requires only routine work that does not require learning new information or English. Furthermore, inability to work is not required by the statute nor regulations and should not be substituted as a standard for a qualifying medical diagnosis.

Practice Tip: Prepare disability waiver applicants to answer some questions about daily living such as employment, how they take transportation, and whether they attended school as some USCIS officers will delve into these areas despite the questionable relevance of these topics. Many USCIS officers will ask detailed questions about the medical professional who completed the N-648, asking who referred the applicant to that person, how many visits were made, when the most recent visit was, whether there was treatment over time or just a single visit, and whether the medical professional has a local office. When USCIS officers reject a qualifying N-648 because of details of the applicant’s daily life, advocates should request supervisory review.

The current version of USCIS guidance in the Policy Manual creates many new restrictions on disability waivers and appears to assume that fraud is frequent in the disability waiver process. This creates unnecessary stumbling blocks for legitimate disability waiver applicants.

As the CIS Ombudsman has reported, USCIS already has a robust process for investigating immigration benefit fraud through the Fraud Detection and Analysis Directorate (FDNS), and in FY 2020, only 0.5 percent of N-648 filings (302 of 65,091) were referred to FDNS of which only 66 (0.1 percent) were found to be fraudulent.³¹ The additional restrictive changes to the USCIS Policy Manual on disability waivers were unnecessary and were unsupported by USCIS’s own record.³²

Below are some factors that USCIS’s policy guidance lists as possible “credible doubt, discrepancies, misrepresentation, fraud” problems with the N-648.³³

³¹ See CIS Ombudsman Annual Report 2021, p. 47,

https://www.dhs.gov/sites/default/files/publications/dhs_2021_ombudsman_report_med_508_compliant.pdf

³² ILRC has advocated with USCIS to remove these changes made to the USCIS Policy Manual in 2018 and 2020 as they are arbitrary, capricious, and beyond the authority of the statute and regulations. ILRC, Policy Manual Recommendations, Sept. 2, 2021,

https://www.ilrc.org/sites/default/files/resources/ilrc_uscis_pm_suggestions.pdf

³³ 12 USCIS-PM E.3.

- “The medical professional’s responses on the Form N-648 lack probative value because the responses do not contain a reasonable degree of detail or fail to provide any basis for the stated diagnosis and the nexus to the inability to learn, speak or read or understand English.
- The medical professional did not explain the specific medical, clinical, or laboratory diagnostic techniques used in diagnosing the applicant’s medical condition on the Form N-648.
- The Form N-648 does not include an explanation of the doctor-patient relationship indicating that the medical professional completing the Form N-648 regularly treats the applicant for the cited conditions, or a reasonable justification for not having the Form N-648 completed by the regularly treating medical professional (if applicable).
- The medical professional who certified the Form N-648 does not regularly treat that patient. However, such a factor, by itself, may not be determinative for an officer's finding that the Form N-648 is insufficient.
- The Form N-648 was completed by the certifying medical professional more than 6 months before the applicant filed the naturalization application.
- The Form N-648 provides information inconsistent with information provided on the naturalization application or at the interview. For example, the effects of the medical condition on the applicant’s daily life such as employment capabilities or ability to attend educational programs.
- Previous medicals including Report of Medical Examination and Vaccination Record, Form I-693 did not identify long-term medical condition which may be inconsistent with the Form N-648’s indication of when the condition began, if indicated.
- The applicant or the medical professional failed to provide a reasonable justification for the late filing of the Form N-648.
- The applicant during the interview indicates that he or she was not examined or diagnosed by the medical professional, the medical professional did not certify the form him or herself, or the applicant merely paid for the Form N-648 without a doctor’s examination and diagnosis.
- The medical professional completing the Form N-648 is under investigation for immigration fraud, Medicaid fraud, or other fraud schemes by USCIS Fraud Detection and National Security (FDNS) Directorate, Immigration and Customs Enforcement, or another federal, state, or local agency, or a state medical board.

- The medical professional has engaged in a pattern of submitting Forms N-648 with similar or “boiler plate” language that does not reflect a case-specific analysis.
- The interpreter used during the medical examination, the Form N-400 interview, or both, is known or suspected, by FDNS or another state or federal agency, to be involved in any immigration fraud, including and especially Form N-648 related fraud.
- The evidence in the record or other credible information available to the officer indicates fraud or misrepresentation.
- The applicant provides multiple Forms N-648 with different diagnoses and information and from different doctors; or
- Any other articulable grounds that are supported by the record.”

Applicants and their advocate should be prepared to refute any circumstances that would give rise to alleged doubts or discrepancies according to this guidance in the Policy Manual.

Practice Tip: Practitioners report that naturalization disability waivers are not reviewed in advance by USCIS officers and that waivers are so often challenged that it is best to provide legal representation in these interviews. If USCIS officers stray into irrelevant questions such as asking applicants what kind of medication they take, whether they ride the bus, whether they have a job, the advocate should object and refer the officer to the medical diagnosis in the N-648. Advocates should also request review by the office supervisor.

Adjudication of the N-648 will not take place until the naturalization interview. USCIS officers usually review the information for the first time during that interview and may issue a Request for Evidence (RFE) if more information is needed. Advocates have long urged USCIS to develop a process where N-648s are reviewed in advance of interview, since appearing in person with an interpreter and legal representative accompanying a disabled applicant is a major use of resources. It would be more efficient for both USCIS and applicant if there was advance review.

VI. The Oath Waiver

Naturalization applicants are required to take a loyalty oath that demonstrates that they are “attached to the principles of the United States, and well-disposed to the good order and happiness of the United States.”³⁴ A disabled applicant can seek a waiver of this requirement if they have a physical, developmental or mental disability that prevents them from being able to

³⁴ INA § 316(a)(3).

understand the meaning of the oath, or to communicate an understanding of the oath. Congress changed the language in the naturalization law in 2000 to specifically allow this group to waive the oath when needed.³⁵

To request such a waiver, the applicant needs to submit a written request with a medical evaluation that explains the need for the waiver.³⁶ There is no specific form to seek such a waiver, which is separate from the disability waiver for the English and civics requirement. The oath waiver can be requested at any point in the naturalization process. The medical evaluation should be by a medical doctor, doctor of osteopathy, or clinical psychologist.

According to the USCIS Policy Manual, if the applicant seeks an oath waiver, they must have either a court-ordered legal guardian or surrogate, or a designated representative who is a U.S. citizen and is either a spouse, parent, adult son or daughter or adult brother or sister who is able to document that they have the primary custodial care and responsibility for the applicant. That guardian or designated representative would sign for the qualifying applicant and act on their behalf.

This restriction in the Policy Manual further limits the naturalization possibilities for applicants with disabilities as some may not have one of the listed relatives, and the court ordered guardian process is a burden on time and finances that may not be possible for applicants. No such restriction exists in the statute or regulations.³⁷

The regulations also specify that naturalization applicants can seek an expedited oath ceremony.³⁸ Expedite requests can be based on serious illness of the applicant or a member of their family, a disability that prevents the applicant's personal appearance, or urgent or compelling circumstances related to travel or employment.

VII. Conclusion

Although Congress has provided for an accommodations process since 1973, a waiver of the English and civics requirement since 1994, and an oath waiver for disability since 2000, applicants with disabilities still face hurdles to naturalization. USCIS has implemented restrictive guidance in their Policy Manual that goes beyond what the statute and regulations require. The

³⁵ INA § 337(a), Pub.L. 106-488 enacted July 12, 2000.

³⁶ 12 USCIS-PM J.3(C)(3).

³⁷ See ILRC, Advocacy Letter on Oath Waiver and Accommodations for Naturalization Applicants with Disabilities (June 2022), <https://www.ilrc.org/ilrc-advocacy-letter-oath-waiver-and-accommodations-naturalization-applicants-disabilities> .

³⁸ 8 CFR § 337.3.

additional hurdles in the Policy Manual mean that the disability waiver process is an arduous one for many eligible applicants.

The accommodations process can help some persons be successful in naturalization, and the oath waiver can help those whose disability prevents them from understanding or communicating the oath requirement. Disabled applicants can also seek an expedited oath ceremony if needed.



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