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June 16, 2022

Ms. Amanda Baran
U.S. Citizenship and Immigration Services
Office of Policy and Strategy

Dear Ms. Baran,

We appreciate USCIS's commitment to promoting and prioritizing naturalization and we have been heartened by the meaningful engagement opportunities with agency officials on our priorities. I know you are familiar with ILRC's work. Our focus on naturalization is a core part of our mission as a national non-profit organization that provides legal trainings, educational materials, and legal support to thousands of legal practitioners and non-profit legal services providers. Our deep interest in naturalization access arises as we are the lead of the New Americans Campaign (NAC) and an active participant in the Naturalization Working Group (NWG). The NAC is made up of hundreds of national and local organizations committed to helping Lawful Permanent Residents (LPRs) become U.S. citizens.

We urge USCIS to remove restrictions for naturalization applicants with disabilities that have been added by the USCIS Policy Manual. We have previously written to USCIS about restrictive language on disability waivers that was added to the Policy Manual in 2018 and 2020.¹ In addition, we are urging that USCIS withdraw the requirements in the Policy Manual that only a limited list of U.S. citizen relatives who are the primary caregiver or a legal guardian or surrogate with a court order can substitute as a designated representative for an individual with disabilities in the oath waiver or as an accommodation in the naturalization process.² Congress intended to make an oath waiver available to applicants with disabilities by explicitly changing the statute to allow that in 2000.³ There are regulations that specifically allow expedited oaths for persons with disabilities who cannot make a personal appearance or who can show other urgent humanitarian circumstances.⁴ Furthermore, Section 504 of the

¹ The 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). Our recommendations to removal these restrictions on disability waivers were sent on September 2, 2021, <https://www.ilrc.org/ilrc-uscis-policy-manual-suggestions>.

² 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.

³ INA § 337(a). On July 12, 2000, Pub. L. 106-448 added this language: "The Attorney General may waive the taking of the oath by a person if in the opinion of the Attorney General the person is unable to understand, or to communicate an understanding of, its meaning because of a physical or developmental disability or mental impairment. If the Attorney General waives the taking of the oath by a person under the preceding sentence, the person shall be considered to have met the requirements of section 1427(a)(3) of this title with respect to attachment to the principles of the Constitution and well disposition to the good order and happiness of the United States."

⁴ 8 CFR § 337.3.



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Rehabilitation Act of 1973 prohibits discriminatory treatment of individuals with disabilities and requires all Executive agencies to make reasonable accommodations to individuals with disabilities so that they can access government benefits. There is no language in the law or regulations that limits the oath waiver to only those people with disabilities who have certain U.S. citizen relatives who are their primary caregiver, or who can seek a legal guardian or surrogate through a court order. These restrictions are ultra vires and should be removed.

The current requirements in the Policy Manual prevent otherwise eligible applicants who have disabilities from waiving the oath because they do not have one of the U.S. citizen relatives listed (parent, spouse, adult son or daughter, adult sibling) and may not have the finances or time to go through a court-ordered legal guardianship or surrogate process. In our contacts with the immigration services non-profit agencies who represent this population, we have become aware that otherwise eligible naturalization applicants with a disability are unable to complete the process because they do not have any of the close U.S. citizen relatives, nor do they have the representation, time and money that a legal guardian or surrogate process takes in the courts. In addition to the cost and complexity of a court-ordered guardianship, the disabled applicants are often elderly and in frail health and do not have unlimited time to complete their naturalization. A reasonable accommodation for disabled individual would be to allow any family member, trusted individual, or social worker to stand in for the applicant when the disability prevents their personal appearance and testimony.

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It is arbitrary and capricious for USCIS to limit the oath waiver and ability to not appear in person for naturalization to a subset of people with disabilities when no such limitations exist in the statute and regulations. Even if it did not contradict the statutes and regulations, these limiting requirements make little sense – how is a U.S. citizen relative somehow more inherently reliable than anyone else? We request that USCIS remove these restrictions and replace it “a family member, social worker, or other trusted individual” as to who can stand in for an applicant with disabilities in the oath, or in appearing in person for the naturalization interview as an accommodation.

Again, we appreciate USCIS’s deep commitment to improving access to naturalization, and we see these improvements to the guidance on naturalization access for persons with disabilities as crucial to both improving access and complying with Congressional intent.

Sincerely,

Peggy Gleason
Senior Staff Attorney
Immigrant Legal Resource Center