

CHAPTER 9

LOYALTY OATH AND NATURALIZATION CEREMONY

This chapter includes:

§ 9.1	Introduction	9-1
§ 9.2	Oath of Allegiance	9-1
§ 9.3	The Text of the Oath	9-2
§ 9.4	The Meaning of the Oath.....	9-2
§ 9.5	Exceptions to Taking the Oath of Allegiance.....	9-3
§ 9.6	Waiver of the Oath of Allegiance for Individuals with Certain Disabilities.....	9-4
§ 9.7	CIS Recognized Indicators That a Naturalization Applicant with a Disability Understands the Oath.....	9-10
§ 9.8	Expedited Ceremonies for Persons with Serious Illness or Disabilities	9-11
§ 9.9	Changes in the Naturalization Process	9-13
§ 9.10	Jurisdiction -- CIS or the Courts.....	9-13
§ 9.11	Judicial Ceremonies	9-14
§ 9.12	Name Changes.....	9-15
§ 9.13	CIS Ceremonies.....	9-15
§ 9.14	Failure to Attend a Naturalization Ceremony	9-16
§ 9.15	Procedures during a CIS or Judicial Ceremony	9-16
§ 9.16	Applying for a U.S. Passport.....	9-18
§ 9.17	Gaining Knowledge from Clients.....	9-18

§ 9.1 Introduction

The final step in the naturalization process requires taking an oath of allegiance to the United States. A naturalization applicant takes this oath at a naturalization ceremony, either in front of a judge or a CIS official. Once she has taken the oath, she is a citizen of the United States and receives a Certificate of Naturalization (CIS Form N-550) to document this fact.

§ 9.2 Oath of Allegiance

All naturalization applicants must demonstrate that they are “attached to the principles of the Constitution of the United States and well disposed to the good order and happiness of the

United States.”¹ Applicants satisfy this requirement by taking a loyalty oath, the oath of allegiance, when they are sworn in as United States citizens.

§ 9.3 The Text of the Oath

The text of the oath of allegiance is found in 8 CFR § 337.1(a) and reads as follows:

I hereby declare, on oath, that I absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, of whom or which I have heretofore been a subject or citizen; that I will support and defend the Constitution and laws of the United States of America against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will bear arms on behalf of the United States when required by the law; that I will perform noncombatant service in the Armed Forces of the United States when required by the law; that I will perform work of national importance under civilian direction when required by law; and that I take this obligation freely without any mental reservation or purpose of evasion; so help me God.

§ 9.4 The Meaning of the Oath

An oath of allegiance is a prerequisite to naturalization. Practitioners should discuss what the oath means with clients, especially since the oath itself is filled with legal jargon. One way to discuss the oath with clients may be to raise some of the following points:

Taking the oath does not mean that you give up all ties and connections to the country where you were born, but it does mean that you support the structure of government in the United States and you will obey its laws. You can take the oath of allegiance even if you think that changes could be made to make the government work better or more fairly, as long as you support lawful means of making changes (“peaceful change”).

Additionally, some people hesitate to become citizens because naturalizing feels like an act of disloyalty to the country where they were born. Practitioners should be prepared to discuss these thoughts with clients and encourage them to talk with others who have made the decision to become citizens (see § 9.17).

Example: Nicolasa is eligible to become a citizen, but feels hesitant because she does not want to be disloyal to her country of birth, Peru. Her legal worker encourages her to speak with other immigrants, especially people from Peru, who have become citizens to see how they feel. Her legal worker gives her the names

¹ INA § 316(a)(3).

of some former clients who have volunteered to speak with new clients who are considering naturalization. After discussing naturalization with these people, Nicolasa decides that she will still be able to strongly support Peru without giving up the chance to become a U.S. citizen.

It is important to note that even though the oath says, “I renounce allegiance to any foreign sovereign,” U.S. law does not require that any naturalizing citizen give up his or her citizenship of another country. Although dual citizenship is not encouraged, the U.S. government does not forbid it. Many people who naturalize maintain their citizenship in another country despite having taken the oath. Some other countries, however, do require their citizens to give up the citizenship of their native countries in order to become a citizen of the U.S. **Chapter 2** of this manual discusses this issue in more detail.

Applicants Bearing Hereditary Titles or Orders of Nobility

Those who have hereditary titles or orders of nobility must expressly renounce such titles or orders at the oath ceremony.² Within the ceremony the applicant must recite the following: “I further renounce the title of [give title(s)] which I have heretofore held” or “I further renounce the order of nobility [give order of nobility] to which I have heretofore belonged.”³ Such renunciation will be recorded as part of the proceedings.⁴

§ 9.5 Exceptions to Taking the Oath of Allegiance

Children

CIS may waive the taking of the oath of allegiance for children who are unable to understand its meaning.⁵ Whether the child’s inability to understand the oath results from “normal mental immaturity” or “retarded mental development,” CIS will waive the oath requirement just the same.⁶

Religious or Moral Conviction

There are two principal parts of the loyalty oath that some applicants have historically wished to modify: “I will bear arms” and “so help me God.” Both of these issues have been addressed in the courts many times.

² INA § 337(b), 8 USC § 1448(b).

³ 8 CFR § 337.1(d).

⁴ INA § 337(b).

⁵ INA § 337(a)(5)(C).

⁶ *INS Interpretations* 322.3(b)(4).

A conscientious objector can still take an unqualified oath of allegiance.⁷ People who oppose bearing arms (carrying or using weapons, or providing direct support to those who do) or all military service because of religious training or beliefs may take the oath, leaving out the part where the oath says “I will bear arms” and “I will perform noncombatant services.” This means that they accept the oath in every way but they will not bear arms or perform noncombatant services.⁸

Generally, the interpretation of what kinds of religious training and beliefs can form the basis for the refusal to take that portion of the oath has been similar to interpretations in the selective service context. The applicant’s beliefs do not necessarily have to include a belief in a supreme being, but rather a higher power to which all else is subordinate.⁹ CIS generally follows a three-part test to see if the applicant qualifies for exemption from the promise to bear arms in the oath.¹⁰ To qualify, applicants must show: (1) that they are opposed to any type of service; (2) that the objection is based on religious principles; and (3) that the beliefs are meaningful, sincere, and deeply held. Each of these tests must be satisfied.¹¹

Those who cannot take the oath with the words “on oath” or “so help me God” shall substitute the words “and solemnly affirm” for “on oath” and “so help me God” shall be deleted.¹² This group of applicants may include Quakers, Jehovah’s Witnesses, or other individuals opposed to taking oaths.

Example: Grace McHutchin, from Ireland, has been a Jehovah’s Witness for many years. Her religious training prevents her from taking “oaths” under any circumstances. However, she can freely “affirm” that she will do something or that something is true. Therefore, she agrees to affirm her loyalty to the United States, and during the ceremony she makes the required substitutions while taking the oath.

§ 9.6 Waiver of the Oath of Allegiance for Individuals with Certain Disabilities

Generally, all applicants for naturalization are required to take the oath of allegiance. However, CIS may grant an applicant a waiver of the oath of allegiance because he or she has certain disabilities. These applicants will be considered to be “attached to the principles of the

⁷ *Girouard v. U.S.*, 328 U.S. 61 (1946).

⁸ See INA § 337(a) and 8 CFR § 337.1(b).

⁹ *INS Interpretations* 337.2(b)(2)(ii), citing *U.S. v. Seeger*, 380 U.S. 163 (1965); *Welsh v. U.S.*, 398 U.S. 333 (1970).

¹⁰ *INS Interpretations* 337.2(b)(2)(i).

¹¹ *INS Interpretations* 337.2(b)(2)(i), citing *Armstrong v. Laird*, 456 F.2d 521 (1st Cir. 1972); *Clay v. United States*, 403 U.S. 698 (1971).

¹² 8 CFR § 337.1(b); *INS Interpretations* 337.7.

Constitution of the United States.”¹³ In other cases, CIS adjudicators are instructed to accept less formal means of communication from qualifying applicants to indicate that he or she understands the nature of the oath of allegiance.

On November 6, 2000, then President Clinton signed a law, which allows the Attorney General to waive the oath requirement if in his or her opinion, the applicant can neither understand nor communicate an understanding of the meaning of the oath due to a physical or developmental disability or mental impairment.¹⁴

Before this new law, adjudicators could deny an applicant’s case based on a finding that the applicant could not understand the oath of allegiance because of his or her severe disability. With this new waiver of the oath of allegiance, the applicant will be considered to have satisfied the showing of attachment to the Constitution’s principles as set out in INA § 316(a)(3).

On June 30, 2003, CIS issued a memorandum outlining the procedures for implementing the oath and allegiance waiver.¹⁵ See **Appendix 9-D** for a copy of the memorandum. The remainder of this section (§ 9.6) is a summary of the oath waiver memo.

Purpose of the Oath Waiver

Any individual whom CIS determines qualifies for an oath waiver will also be deemed to have met the attachment requirement under INA § 316(a)(3). An oath waiver is not meant for applicants who find the naturalization process challenging or attendance at the oath ceremony inconvenient. Nor is an oath waiver meant for those who qualify for a modified oath under INA § 337(a). Note that the requirements for the oath waiver are distinct from the requirements for the English and civics waiver under INA § 312. Many times applicants who are granted an English and/or civics waiver can still fulfill the oath requirement despite their disabilities and without the oath waiver.

Procedures for Requesting a Waiver

There is no form for the oath waiver. However, CIS asks that applicants make their request by annotating Part 3, section 1 of the Form N-400, Application for Naturalization, or by submitting a letter requesting the waiver at the time of filing the N-400. CIS will accept requests for an oath waiver at any point in the naturalization process up until the administration of the oath ceremony. This helps account for applicants who may develop a disability after the time of the

¹³ 77 *Interpreter Releases* 1599 (Nov. 13, 2000).

¹⁴ 77 *Interpreter Releases* 1599 (Nov. 13, 2000), citing S. 2812; Pub. L. No 106–448; 114 Stat. 1939. INA § 337(a).

¹⁵ See Appendix 9-D, U.S. Department of Homeland Security, Bureau of Citizenship and Immigration Services Memorandum from William R. Yates, Acting Associate Director, *Procedures for Implementing the Waiving of the Oath of Renunciation and Allegiance for the Naturalization of Aliens having Certain Disabilities* (June 30, 2003).

filing of his or her naturalization application. However, it is important that a request for a waiver be made as soon as possible, since CIS may request additional evidence. Additional time may be necessary to determine who is qualified to act as a designated representative on the applicant's behalf.

Eligibility

To be eligible for an oath waiver, an individual must have a developmental or physical disability or mental impairment so severe that he or she is prevented from being able to understand the meaning of the oath or to communicate an understanding of the oath requirement. CIS determines whether an applicant understands that he or she is (1) becoming a citizen of the United States, (2) forswearing allegiance to his or her country of nationality, and (3) personally and voluntarily agreed to a change in status.

CIS has various ways to determine whether the applicant understands the oath requirement. Often this is done through the aid of a family member of the applicant. In that case, CIS explains the requirements of the oath to a family member who acts as an interpreter and gives the applicant the questions in a simplified format. This allows the applicant to answer through "yes" or "no" responses or predetermined physical motions or signals that the applicant uses to communicate. Or, officers can and should attempt to explain the oath requirement in simplified language and permit the individual to respond to yes/no questions or accept physical signals as acceptable responses.

Example: Trahn has mental retardation and has an IQ of 60. He has applied for naturalization. The examiner asks Trahn the following questions: Do you like living here? Would you hurt any one in this country? Do you want to be an American like your mom? Trahn answers *Yes* to the first and third questions and *No* to the second one, and the examiner finds that Trahn has met the requirement of being able to understand the process of swearing allegiance to the United States.

Documentary Requirements for Waiver

Often the need for a waiver for an applicant is apparent upon seeing or attempting to examine the applicant. In addition, CIS requires an applicant (or his or her designated representative) to submit a written evaluation completed by a medical or osteopathic doctor licensed to practice in the United States or a clinical psychologist licensed to practice psychology in the United States. CIS also requires that the evaluation:

- (1) Is completed by the physician who has had the longest relationship with the applicant or is most familiar with the applicant's medical history;
- (2) Expresses the applicant's condition/disability in lay terms (except for the names and medical definitions of the disabilities) that can be easily understood by the designated representative and the CIS examiner;

- (3) States why and how the applicant is unable to understand or communicate an understanding of the meaning of the oath because of the disability;
- (4) Indicates the likelihood of the applicant being able to communicate or demonstrate an understanding of the meaning of the oath in the near future; and
- (5) Contains the signature and state license number for the medical professional completing the written evaluation, reflecting that the professional is authorized to practice in the United States.

CIS does not currently require doctors to explain how they reached the diagnosis. (Note that CIS requires more information from the doctor for the N-648 disability waiver for the English and civics testing requirements. Refer to **Chapter 7**.) The doctor is also required to thoroughly explain how the applicant's disability impairs his or her functioning so severely that he or she is unable to demonstrate an understanding of the oath requirements. CIS reserves the right to request additional documentation.

Adjudication of Waiver Requests

CIS will evaluate the relevant evidence submitted by the applicant and his or her designated representative, including the doctor's assessment. CIS will consider the applicant's physical conditions and responses to questions customarily asked during the naturalization examination. Any statements by the designated representative regarding the applicant's capabilities will also be taken into account. If CIS determines the applicant understands the explanation of the oath [i.e., that he or she understands that he or she is (1) becoming a citizen of the United States, (2) forswearing allegiance to his or her country of nationality, and (3) personally and voluntarily agreed to a change in status], then he or she is not eligible for the waiver. CIS will then schedule the applicant for participation in the oath ceremony. If CIS determines that the applicant cannot express intent or voluntary assent to the oath requirement, CIS will grant the oath waiver.

Designated Representatives

Individuals Eligible to Act as Designated Representatives. Designated representatives are authorized to act on behalf of applicants with disabilities at every stage of the naturalization proceeding. The designated representative may be either:

- (1) a legal guardian or surrogate appointed by
 - (a) a recognized court with jurisdiction over matters of guardianship or surrogacy or
 - (b) an appropriate state agency with authority to make such appointments in the jurisdiction of the applicant's place of residence in the United States; or
- (2) in the absence of a legal guardian or surrogate, a U.S. citizen spouse, parent, adult son or daughter or adult brother or sister.

The designated representative may have filed the application on behalf of the applicant. If the designated representative is not a legal guardian or surrogate, the designated representative *must* have knowledge of the facts supporting the applicant's eligibility for naturalization.

Documentary Requirements. Every qualified designated representative must state, in writing and under oath, that, to the best of his or her knowledge and belief, no other person has been granted the legal guardianship or authority over the affairs of the applicant whom he or she seeks to represent.

A legal guardian or surrogate should submit documentary evidence from the appropriate state authority or court of competent jurisdiction that granted legal guardianship or custody over the applicant.

In addition, the following evidence should be submitted:

- **A U.S. citizen spouse, parent, adult son or daughter, or adult brother or sister** must submit evidence of his or her citizenship status as described in 8 CFR § 204.1(g).
- **A U.S. citizen spouse** also must submit evidence that he or she is legally married to the applicant and state under oath that they are still legally married.
- **A U.S. citizen parent** must submit evidence that the applicant is his or her child, son, or daughter as required in 8 CFR § 204.2(d)(2)
- **A U.S. citizen adult son or daughter who is primary caretaker of the applicant** must submit evidence as required in 8 CFR § 204.2(d)(2) establishing that he or she at some time met the requirements of "child" found in INA § 101(b)(1). The adult son or daughter must also submit evidence that he or she has primary custodial responsibility for the applicant, e.g., tax returns reflecting that the applicant has been declared a dependent in the household or an executed power of attorney.
- **A U.S. citizen adult brother or sister who is the primary caretaker of the applicant** must submit evidence required under 8 CFR § 204.2(g)(2) establishing that her or she meets the requirements of being a sibling of the applicant. Just as is the case with U.S. citizen adult sons and daughters, the adult brother or sister must submit evidence that he or she has primary custodial responsibility for the applicant.

Determination of Eligibility to Act as Designated Representative. CIS only permits one recognized designated representative to represent the applicant at any time through the naturalization process. If there is more than one party seeking to act as the designated representative, CIS will recognize designated representatives in the following order of priority:

- (1) Legal guardian or surrogate;
- (2) U.S. citizen spouse;
- (3) U.S. citizen parent;
- (4) U.S. citizen adult son or daughter;
- (5) U.S. citizen adult brother or sister.

If there is a conflict between individuals with the same degree of familial relationship, CIS gives priority to the party with seniority in age.

Procedures for Handling Form N-400 for Qualified Waiver Applicants

Filing form N-400. A grant of an oath waiver does not relieve the applicant of establishing eligibility for naturalization. Applicants must still file a Form N-400 and supporting documents, photographs, fees, and fingerprints.

A potential designated representative may help the applicant file the N-400. In that case, he or she should provide documentation establishing his or her eligibility to act on behalf of the applicant as the designated representative. The potential designated representative must sign the “Preparer’s Box” of section 12 of the N-400. Where the applicant is unable to sign, the potential designated representative must also sign the signature box, attesting under penalty or perjury that the information being provided is true and correct.

Examination on Form N-400. CIS still requires that the applicant for naturalization appear for an examination. However, where an applicant is homebound or in medical care and cannot make it to CIS for medical reasons, CIS conducts off-site examinations as provided in 8 CFR § 334.4. Reasonable accommodations will be made to elicit responses from the applicant regarding the N-400. CIS will only conduct the examination through the designated representative when the applicant is unable to respond in any fashion, including the use of predetermined motions or signals. At that point, the designated representative is allowed to complete the examination on behalf of the qualified applicant, attesting orally under oath, through affidavits, and submission of documentary evidence as to the applicant’s qualifications.

The designated representative bears the burden of establishing the applicant’s eligibility for naturalization and, therefore, must address every requirement for naturalization. Also, the designated representative is required to annotate any amendments to the N-400. In addition, the designated representative must attest to the truthfulness of the statements contained on the Form N-400 and to his or her testimony during the examination by signing the application under penalty of perjury.

If CIS determines the designated representative has made false statements under oath or willfully concealed or misrepresented material facts, CIS will deny the application for naturalization. If CIS discovers this misconduct following approval of the N-400 but before the administration of the oath, CIS will reopen the application under 8 CFR § 335.5 and deny the application based on the derogatory information.

Oath Ceremony. If CIS approves an oath and attachment waiver, the applicant with the disability is not required to participate in the public oath ceremony as required under INA § 337. However, CIS will honor requests by the applicant or the designated representative to participate in the ceremony or receive the certificate in an appropriate manner.

Cases Pending at the Time of the Issuance of the Memo (June 30, 2003). Any case that was pending at the time of the issuance of this memo (June 30, 2003) and that could have been

approved, if the person that assisted the applicant had met the requirements of being a designated representative, should be approved.

In any case where an applicant had failed an initial examination because he or she did not understand or was unable to participate in the examination, the applicant should be afforded another examination with the assistance of a designated representative who is authorized by this memorandum.

Denials. Since November 6, 2000, no application for naturalization can be denied for an applicant's failure to understand the oath of renunciation and allegiance.

§ 9.7 CIS Recognized Indicators That a Naturalization Applicant with a Disability Understands the Oath

If CIS does not grant the applicant a waiver of the oath of allegiance, there are other options for qualifying applicants.¹⁶ Each CIS naturalization adjudicator makes a decision about whether individual applicants are competent to understand the oath. The CIS adjudicators are not supposed to expect an applicant with a disability to necessarily understand every word of the oath, as long as he or she understands the nature of the oath. CIS is supposed to explain the oath in simple terms to people who, because of their disabilities, have problems understanding the oath. In some cases, adjudicators will ask the questions listed in Part 10(H) of the N-400 form to determine if the applicant understands the oath. Other times, the CIS adjudicators will ask different questions. Sample lines of questioning could include whether or not the applicant understands that he or she is becoming a U.S. citizen, is forswearing allegiance to his or her other country of nationality, and agrees to become a U.S. citizen.

CIS has instructed its adjudicators to accept less formal means of acceptance of the terms of the oath than have been accepted in the past. According to CIS, naturalization adjudicators will accept a wide variety of predetermined signals from an applicant with a disability that indicates that she understands the nature of the oath.¹⁷ Examples of these signals could include: a head nod, eye blinking, or other signals specific to the individual that mean "yes" or "no."

Example: Sarah cannot speak nor can she nod her head because of a physical disability. However, Sarah has developed a form of communication with her sister. If Sarah's sister

¹⁶ CIS is required to offer modifications or accommodations for applicants with disabilities, upon the request of the applicant. Such accommodations may include speaking loudly for a hearing impaired applicant, allowing extra time to write for an applicant with arthritis, arranging for a sign language interpreter, home interviews for homebound applicants, and most other reasonable requests. Generally no documentation is required in support of the request for accommodation. See USCIS Interoffice Memorandum, "Guidance on Making the Naturalization Process Accessible to Applicants with Disabilities," William Yates, January 21, 2003.

¹⁷ See Footnote 16 above. The ILRC's position is that a family member of the applicant may tell the CIS examiner before the interview how the applicant plans to communicate.

asks her a question, Sarah will blink her eyes twice to indicate “yes” and once to indicate “no.” The CIS adjudicator should let Sarah’s sister ask the questions and accept the form of communication the two sisters have developed.

Example: Aki the advocate accompanied her client, Sam, to his naturalization interview. Sam had a disability, which among other things prevented him from understanding many questions that the CIS adjudicator asked. Additionally, he only answered “yes” and “no” questions. When the adjudicator asked Sam about his allegiance to the U.S., he asked questions such as: Do you swear allegiance to the U.S.? Will you bear arms on behalf of the U.S.? Do you know what a war is? Sam didn’t understand the questions and did not answer them. So, Aki rephrased the questions in the following way to show the adjudicator that Sam did indeed fulfill the requirement of being able to understand the oath of allegiance: Do you want to be a citizen like your mother and father? (Sam answered yes.) Do you want to go back to Romania (your home country)? (Sam answered no.) Do you want to continue living with your parents? (Sam answered yes.) If your father told you to help America, would you? (Sam answered yes.) Would you do anything to hurt America? (Sam answered no.)

Aki then argued that the responses that Sam gave to the adjudicator demonstrated that Sam can understand the oath of allegiance and he supports the U.S. government.¹⁸

In the event that CIS does not grant a waiver of the oath of allegiance, or accept an applicant’s less formal means of communicating that he or she understands the oath of allegiance, advocates should consider appealing the denial through the CIS administrative appeals process. (See **Chapter 11**.) If denied by the CIS administrative appeals process, they should appeal to the federal district courts. Additionally, in such circumstances, we recommend an administrative complaint against CIS under § 504 of the Rehabilitation Act of 1973 with the Department of Justice, Civil Rights Division’s Disability Rights Section on this issue. Please see **Appendix 9-B** for a sample § 504 administrative complaint and a blank copy of the form.

§ 9.8 Expedited Ceremonies for Persons with Serious Illness or Disabilities

Either a court or a CIS administration of the oath may be expedited. The administration of the oath might also take place outside of a public ceremony for certain compelling reasons. These reasons may include: serious illness of the applicant or a family member, disability or advanced age, or urgent or compelling circumstances related to travel or employment.¹⁹ Requests for expedited administration of the oath should be submitted in writing to the district director of the CIS office having jurisdiction over the applicant or to the court.²⁰

¹⁸ This example is adopted from an example, which Melinda Bird of Protection and Advocacy discussed during a training in Los Angeles, California on February 14, 1997.

¹⁹ 8 CFR § 337.3 (a).

²⁰ 8 CFR § 337.3 (c).

If an applicant has a serious disability or sickness that prevents her from appearing at the public ceremony, CIS may arrange for the oath to be administered in a place other than the district office.

Example: Suzu is applying for naturalization. A week after her successful interview, she was involved in a serious car accident. The doctors predict that she will not be able to leave the hospital for at least six months. Her legal worker helps her convince the CIS District Director to send a CIS adjudicator to the hospital to administer the oath.

Each office may have its own procedures for permitting expedited oaths and for accommodating them, and advocates should find out what procedures to follow in each district. The San Francisco CIS office's procedure is for the applicant to write a letter that includes:²¹

- (a) a request for an expedited oath of allegiance,
- (b) the nature of the applicant's disability or illness,
- (c) the reason that the disability or illness prevents him from attending the regularly-scheduled oath ceremony, even with reasonable accommodations (discussed in **Chapter 7** of this manual),
- (d) a request that the oath of allegiance be taken at a specified other site that accommodates the applicant's physical needs (including the applicant's hospital, senior home, private home, or other location in the applicant's neighborhood), and
- (e) a letter from the applicant's treating physician in support of the request, which includes a description of how the disability or illness prevents attendance at the ceremony.

For a sample of a good policy memo that community based organizations and the CIS office in San Francisco wrote about making the naturalization process accessible to applicants with disabilities, please see **Appendix 9-C**.

PRACTICE TIP: This letter also should point out that in addition to requesting that the applicant be able to take the oath of allegiance at a site other than the public ceremony, the regulations (8 CFR § 337.3) provide that the oath be expedited. This is particularly important for applicants whose health is deteriorating, and who need to take the oath of allegiance as soon as they can. However, it is also advisable to find out whether it would be practical to "expedite" the oath. If in spite of advocates' efforts, the "expedited" oath procedure takes longer than the regularly scheduled ceremonies, some applicants may prefer to attend the regular ceremony and should insist on accommodations that will enable them to do so.

²¹ A model request is included in Appendix 9-A.

§ 9.9 Changes in the Naturalization Process

Congress has made several dramatic, and not always consistent, changes in the naturalization procedures over the past many years. Prior to 1990, naturalization was a judicial process, and all naturalized citizens took the oath of allegiance in front of a judge. The Immigration Act of 1990 entirely restructured the naturalization process to make it an administrative process conducted exclusively by CIS. However, the Technical Corrections Act of December 12, 1991, further changed the process, creating a procedure that gives both the courts and CIS the power to conduct naturalization ceremonies and administer the oath of allegiance.

Additionally, since July 24, 1995, immigration judges have been allowed to administer the oath of allegiance.²²

§ 9.10 Jurisdiction -- CIS or the Courts

Courts have exclusive authority²³ for conducting naturalization ceremonies, but only for a limited time period (45 days) from the date a person is deemed eligible to naturalize.²⁴ A court in any jurisdiction must notify CIS in writing that it wants to exercise this right. Practitioners must check with their local districts to see whether the local courts have exercised this option.

If a court states that it wants to conduct the naturalization ceremonies in its district, CIS must deliver “such information as may be necessary to administer the oath of allegiance” within 10 days of approval of the applications.²⁵ The court then has 45 days to administer the oath to the eligible applicants.²⁶ If the court does not conduct a ceremony within the time permitted, the applicant then is given the choice of having a court conduct the oath ceremony, *or* participating in a CIS ceremony.²⁷

Any court with exclusive jurisdiction over the administration of the oath must notify CIS of the time and place of a ceremony at least 60 days in advance.²⁸

On the other hand, if a court does not choose to exercise its right to exclusive jurisdiction over the administration of the oath, the applicant may choose whether to attend a ceremony conducted by CIS or a court.²⁹ At the naturalization interview, CIS must provide the applicant with the upcoming dates and times of each ceremony, so the applicant may make an informed

²² 8 CFR § 337.2(b).

²³ INA § 310(b)(1)(B).

²⁴ 8 CFR § 310.3(c)(1).

²⁵ INA § 310(b)(2)(A)(ii)(I).

²⁶ INA § 310(b)(3).

²⁷ INA § 310 (b)(3)(A) and (b)(1)(A).

²⁸ 8 CFR § 310.3(c)(2).

²⁹ INA § 310(b)(1)(A).

choice.³⁰ The applicant must notify CIS at the time of filing or, at the latest, at the time of the interview, whether she wishes to go before a court or CIS for the administration of the oath.³¹ Practitioners should be sure to discuss with clients the fact that they must make this choice at the time of the interview.

§ 9.11 Judicial Ceremonies

Judicial ceremonies will take place in two situations: first, when a court has exercised its right to exclusive jurisdiction over the administration of the oath, or second, when the applicant has chosen to have his oath administered by the courts. Upon approval of an application, CIS must complete a form (N-646) to notify the clerk of the court that the applicant has been approved for naturalization.³² In districts where the courts have exclusive jurisdiction, CIS must submit this form within 10 days of approval.³³ A CIS representative must either attend all judicial ceremonies or provide written notice.³⁴

Personal appearance by an applicant is an absolute requirement at the naturalization ceremony, except in unusual situations of illness or disability. However, even in these cases one must still comply with the oath ceremony requirement, which can occur at an off-site location. An eligible naturalization applicant may request that CIS allow the prospective citizen to satisfy the oath requirement immediately after passing the naturalization interview.³⁵ Many offices will allow such an oath ceremony.

Changing Oath Ceremonies. If an applicant has elected to take the oath at a court ceremony, but subsequently changes her mind and wants the oath administered instead by CIS or an immigration judge, she must make this request to CIS.³⁶ The request must be filed with the CIS office that granted the naturalization application, in writing, stating the reason for the change.³⁷ If the request is granted, the applicant will be scheduled for the next available administrative oath ceremony.³⁸

³⁰ 8 CFR § 337.7(a).

³¹ 8 CFR § 337.8(a).

³² 8 CFR § 337.8(b).

³³ 8 CFR § 337.8(b).

³⁴ 8 CFR § 337.8(d)-(e).

³⁵ In dicta, the Ninth Circuit recognized the possibility that at least in some circumstances, the taking of the oath before a CIS official without a public ceremony, may be sufficient to complete the naturalization process, citing INA 310(b)(1)(A). *Iasu v. Smith*, 511 F.3d 881 (9th Cir. 2007).

³⁶ 8 CFR § 337.8(f).

³⁷ 8 CFR § 337.8(f).

³⁸ 8 CFR § 337.8(f).

§ 9.12 Name Changes

An applicant for naturalization may choose to attend a court ceremony for the purposes of obtaining a court-ordered name change at the time of naturalization.³⁹ An applicant may petition the court to change his or her name so that the new name may be used on the certificate of naturalization.⁴⁰ In this case, the certificate of naturalization should reflect the new name, and the applicant should sign the certificate with his or her new name.⁴¹ The court should send a copy of the court order to CIS along with the other required notices following a court ceremony.⁴²

The Immigration and Nationality Act only allows applicants to change their names as part of the naturalization process if they are taking their naturalization oaths in court; that is, when the oath ceremony is performed by a judge and is considered part of a federal judicial ceremony.⁴³ The law does not give any power to CIS to change the applicant's name.⁴⁴ Thus, if the applicant lives in a jurisdiction where the federal court does not administer the oath, the applicant will not be allowed to change his or her name as part of the naturalization process.

However, if the applicant can present proof that she has already changed her name in accordance with her state's laws, then CIS may issue the certification of naturalization in her new name.⁴⁵ Some examples include a marriage certificate or divorce decree demonstrating that the applicant changed her name when she married or divorced, or some other state court order mandating a name change.⁴⁶

§ 9.13 CIS Ceremonies

CIS ceremonies will take place in two situations: first, when a court has exclusive jurisdiction but has not administered the oath to an applicant within 45 days of receiving notice of the applicant's eligibility, and second, when a court has not exercised exclusive jurisdiction and the applicant has chosen to take the oath at a CIS ceremony.⁴⁷ CIS naturalization ceremonies are to be held at regular intervals, at least monthly.⁴⁸ Ceremonies must be conducted in a manner that "preserves the dignity and significance of the occasion."⁴⁹

³⁹ Gordon and Mailman § 96.06[2]. Name changes are only available simultaneously if the applicant participates in a court-administered naturalization ceremony.

⁴⁰ INA § 336(e).

⁴¹ 8 CFR § 337.4.

⁴² 8 CFR § 338.2.

⁴³ See 8 CFR § 337.4.

⁴⁴ Gordon and Mailman § 96.06[2].

⁴⁵ USCIS, *A Guide to Naturalization*, M-476 (rev. Mar. 2012), at 11, available at www.uscis.gov/files/article/M-476.pdf.

⁴⁶ *Id.*

⁴⁷ 8 CFR § 337.2(a).

⁴⁸ 8 CFR § 337.2(a).

⁴⁹ 8 CFR § 337.2(a).

§ 9.14 Failure to Attend a Naturalization Ceremony

If the applicant successfully completes his or her interview but fails to attend the oath ceremony, then CIS is supposed to reschedule the ceremony.⁵⁰ If the applicant is unable to attend the naturalization ceremony, he should return the CIS Notice (Form N-445) to his local CIS office, including with it a letter explaining why he cannot attend the ceremony and asking CIS to reschedule his oath ceremony.⁵¹ If he or she misses a second oath ceremony without “good cause” and after having been “duly notified” by CIS of an oath appointment, CIS will assume the application has been abandoned. If this happens, CIS will notify the applicant that it intends to deny the previously granted naturalization application by sending a Motion to Reopen to the applicant. The motion will specify the reason why CIS intends to change its decision from a “grant” to a “denial.” If the applicant can show CIS that he or she missed the oath ceremonies for “good cause,” CIS will reschedule the applicant for a new oath ceremony. If there is no good cause, the Motion to Reopen will be granted and the application will be denied.⁵²

It is important to note that someone whose naturalization application is granted, but who is never sworn in, is not a U.S. citizen until he or she is sworn in.⁵³

§ 9.15 Procedures during a CIS or Judicial Ceremony

Whether a naturalization ceremony takes place with CIS or in a court, the format of the ceremony is similar. The ceremony could be very small (20-60 people), very large (3000-5000 people), or somewhere in between. The very large ones are often held in public halls or arenas.

Applicants receive a notice (Form N-445) stating the time and place of the ceremony they are expected to attend. If an applicant cannot attend a ceremony, he should immediately reschedule his appearance for another day. Generally, all applicants must attend the ceremony in person in order to take the oath and be sworn in as citizens of the United States.

Applicants must complete a short questionnaire on the back of the notice (N-445). The questions all pertain to the applicant’s continuing eligibility for naturalization. The questions include issues such as whether the applicant has left the U.S. since her interview (and therefore possibly disrupted the continuity of or abandoned her residence), whether the applicant has been arrested since her interview (and therefore possibly had problems with good moral character), whether she is still willing to bear arms, and whether she has divorced (if her naturalization is based on three years of marriage to a United States citizen). If there is some kind of problem, applicants will have the chance to resolve it during the ceremony.

⁵⁰ 8 CFR § 337.10.

⁵¹ USCIS, *A Guide to Naturalization*, M-476 (rev. Aug. 2010), at 38, available at www.uscis.gov/files/article/M-476.pdf.

⁵² See 8 CFR §§ 337.10 and 335.5.

⁵³ See *Duran-Picardo v. U.S.*, 2012 WL 3764758 (C.A.3).

At the naturalization ceremony, an applicant must present his completed questionnaire and turn in his green card (I-151 or I-551). He also picks up his Certificate of Naturalization and usually signs it in front of a CIS or court representative.⁵⁴ If an applicant is being granted a name change by a court order at the same time as the ceremony, the applicant will sign the certificate using his new name.⁵⁵ If an applicant does not have his green card because he has lost it or for some other reason, he will have to explain why he does not have it. The district director can waive the requirement that the green card must be turned in if he finds that the card has been lost or destroyed.⁵⁶ CIS will closely question applicants without green cards to make sure that what they are saying is true. If CIS believes the applicant, then he will be able to proceed with the naturalization ceremony.⁵⁷

Applicants must remain until the ceremony has ended so that they can take the oath. Applicants who do not take the oath have not completed the naturalization process and do not become United States citizens. Often, before or following the oath, the judge, a CIS representative, or a guest may make a short speech for the applicants and their families.

Applicants become naturalized citizens of the United States after taking the oath of allegiance at the ceremony.⁵⁸ Immediately after becoming a United States citizen, one can register to vote and apply for a US passport.

CIS recommends that newly naturalized citizens who have changed their names visit the closest Social Security Administration (SSA) Office as soon as possible to update their Social Security records, since their Social Security record will be used to establish their eligibility for benefits and authorization for employment.⁵⁹ The nearest SSA office may be found by visiting www.socialsecurity.gov or by calling 1-800-772-1213. Applicants must bring their Certificate of Naturalization or U.S. passport to the SSA office to update their citizenship status. If the applicant changed his or her name at the oath ceremony, and the name differs from the name on the SSA record and is not reflected on the Certificate of Naturalization, the applicant must show: (1) an expired or unexpired state driver's license or other acceptable form of ID in the applicant's old name as reflected on the SSA record, which contains a photo and/or biographical information; and (2) if the applicant changed his name more than two years ago, he must also show a recently issued identity document that displays his new legal name as reflected on his Certificate of Naturalization or U.S. passport.⁶⁰

⁵⁴ 8 CFR § 338.1(b).

⁵⁵ 8 CFR § 337.4.

⁵⁶ 8 CFR § 338.3.

⁵⁷ INS Operating Instructions 335.2(c).

⁵⁸ 8 CFR § 337.9.

⁵⁹ USCIS, *A Guide to Naturalization*, M-476 (rev. Aug. 2010), at 39, available at www.uscis.gov/files/article/M-476.pdf.

⁶⁰ *Id.*

§ 9.16 Applying for a U.S. Passport

Applicants should be encouraged to keep certificates of naturalization in a very safe place, and not to use them routinely as proof of U.S. citizenship. An easily replaced proof of citizenship is a United States passport. As soon as possible following the ceremony, newly naturalized citizens can apply for a U.S. passport at many local post offices or a passport office. It is a relatively inexpensive and rapid process. U.S. passports can be used to show citizenship when crossing borders, when accepting employment, and for many other purposes.

§ 9.17 Gaining Knowledge from Clients

Clients who have naturalized can become important resources in the communities where they live. They can offer firsthand information of how it felt to become a U.S. citizen, as well as explain the specifics of what went on during the ceremony. They can help encourage other residents to naturalize, thereby increasing the potential voting power of the immigrant community. Increasing the political strength and voice of immigrants in general, and specifically within their own communities, is an important goal of many immigrants. One way of achieving this goal can be for naturalized citizens to encourage more and more immigrants to naturalize. Practitioners are in an excellent position to draw on the knowledge and skills of naturalized citizens and to encourage them to become involved in any community efforts toward that goal.

Example: Mario recently became a naturalized citizen. The legal worker who assisted him, Antonia, asks him if he would be willing to speak at a community meeting about why he decided to become a citizen. Her organization is conducting a Naturalization Campaign to help increase the political power of the immigrant community in their city.

Mario is glad to be able to help. Together he and Antonia review the reasons he had mentioned for wanting to become a citizen. He tells her a little more about how he felt at the time he applied and how he feels now that he has completed the process. Together they write an outline of what he could say in his talk. Then he practices in front of her and later at home with his family. The talk goes very well and it helps convince people that becoming a citizen might be important and may not be as difficult as they thought.