



PROJECT CITIZENSHIP

11 Beacon Street
Suite 720
Boston, MA 02108

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Submitted via Federal eRulemaking Portal

Samantha Deshommès
Chief, Regulatory Coordination Division, Office of Policy and Strategy
U.S. Citizenship and Immigration Services, Department of Homeland Security
20 Massachusetts Avenue NW
Washington, DC 20529-2140

Re: Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Application for Naturalization, Docket ID USCIS-2008-0025 OMB Control Number 1615-0052

Dear Chief Deshommès,

Project Citizenship thanks United States Citizenship and Immigration Services (“USCIS”) for the opportunity to comment on a proposed extension of a currently approved collection of information, Form N-400, Application for Naturalization (“Form N-400,” “N-400,” or “Form”).

Project Citizenship is a nonprofit organization based in Boston, Massachusetts. Launched in 2014, Project Citizenship specializes in helping permanent residents in Massachusetts and beyond overcome barriers to U.S. citizenship. Our mission is to ensure that all eligible immigrants understand and have access to a path to citizenship, regardless of their ability to pay. Since 2014, Project Citizenship has helped over 10,000 lawful permanent residents apply for citizenship through its dedicated full-time staff, pro bono legal partners, and more than 4,000 trained volunteers. Over 94% of our clients naturalize.

USCIS states that its mission is to fairly adjudicate naturalization applications and only naturalize statutorily eligible individuals.¹ Modifying the Form N-400 and naturalization process in the following ways would accomplish this mission while also furthering Project Citizenship’s goal of promoting citizenship so that all individuals eligible for U.S. citizenship can naturalize, participate in democracy, and be civically engaged.

I. Improve the Form N-400 and the Naturalization Process

A. Simplify Language, Eliminate Inapplicable Questions, and Narrow Scope of Form N-400

¹ 87 Fed. Reg. 29758 (May 16, 2022), <https://www.federalregister.gov/d/2022-10434>.



First, the Form should be amended so that plain language is used throughout. USCIS has already demonstrated a commitment to using plain language by expressing its support of the Plain Writing Act of 2010 and implementing an internal plain language program. However, this internal plan has thus far only addressed USCIS's written communications and has not been expanded to prompt a reconsideration of the agency's various application forms.² Specifically, USCIS should consider conducting paraphrase and usability testing to determine the most effective ways to make the Form N-400 less confusing and more easily accessible to people of all cultural, educational, and socioeconomic backgrounds. This testing would also make the application process more equitable for those with language barriers, who should not be excluded from naturalization due to unnecessarily complicated or verbose forms. Other federal agencies have conducted similar testing to improve their forms.³

USCIS has already simplified some language on the Form N-400, indicating an ability to provide more clarity to applicants – for example, in Part 12, Item 20, of the current edition of the Form N-400, USCIS provides definitions of the words “recruit,” “enlist,” and “conscript” within the text of the question. However, the form still uses terms like “habitual drunkard” (Part 12, Item 30A) with no explanation. There is significant room for continued simplification on the Form N-400.

Second, there are several questions that should be optional based on the individual applicant's circumstance that are currently required. This leads to confusion and frustration on the part of applicants and, sometimes, USCIS officers. These include:

- Part 6: The information here does not need to be completed if neither parent of the applicant is a U.S. citizen. However, leaving this section blank often causes confusion and officers fill it in during the interview even if the individual does not have U.S. citizen parents. Therefore, the first question in Part 6 should be a question such as, “Do either of your parents have U.S. citizenship?” Then, if the applicant checks, “No,” there is no confusion as to why the rest of the questions in Part 6 are left blank.
- Part 12, Item 13A-C: This group of questions about the time period of March 23, 1933 and May 8, 1945 should specify they only need to be answered by those who were alive during this time. Most current applicants were not alive in this time period and therefore should not need to answer these questions.
- Part 12, Items 37 through 43: The first question in this section asks if the applicant has EVER served in the U.S armed forces. If the applicant answers “no” to question 37, they should not have to answer questions 38 through 43, which are only relevant if one has served in the armed forces.

Third, USCIS should make the portable document format of the paper Form N-400 more accessible. This includes both the current organization of the form, as well as the fillable fields themselves. Such efforts would promote clear communication from USCIS and increase usability for

² See 2021 Plain Writing Act Compliance Report, Department of Homeland Security, https://www.dhs.gov/sites/default/files/publications/21_0122_plain-language-compliance-report.pdf.

³ See Paraphrase Testing from the Veterans Benefits Administration, Federal Plain Language Guidelines, March 2011, PLAINLANGUAGE.GOV, <https://www.plainlanguage.gov/media/FederalPLGuidelines.pdf>.



applicants. Some applicants do not apply for naturalization at all, or electronically, because of existing structural limitations. Such updates could include the following:

- Eliminate the requirement that all fields include an 8-digit date; the entry of an approximate four-digit date of either MM/YY or YYYY should be permitted.
- The entry of commas, dashes, and tildes should be allowed in all fields.
- Field character limits should be increased; in the current format our organization’s entire name (“Project Citizenship”) surpasses the character limit in the Preparer’s Business or Organization Name field.
- The last 4 digits of the zip code and the county fields in addresses should be eliminated. It is not common knowledge, nor necessary to include this data.
- The form should be reorganized in order of the type of information requested, rather than asking applicants to go back and forth between different types of information. For example, contact information and biographic information about the applicant should go in Part 1, followed by information about the applicant’s parents in Part 2. The applicant’s marital information should go next in Part 3, including their past marriages, and then their spouse’s marital information. Information about children should follow marital information. Part 4 would then include historical information about addresses and employment/school and travel.
- Currently, when an applicant is unemployed or retired, there is no best practice or instructions on how to state that fact on the form. The instructions should specify how best to state that an applicant is unemployed or retired, whether with a check box, a specific fillable field, or instructions on where to provide that information (in the employer or school name field, or the occupation field, or both).
- Part 7, Item 2 should include a fillable field for race, allowing more nuanced answers that reflect the diversity of applicant identities in 2022.
- Parts 16-18, which are to be completed at the USCIS interview, should be removed, to reduce confusion about what sections the applicant must complete in order to complete the Form N-400.

Fourth, USCIS should narrow the scope of the N-400 by eliminating questions that seek information or data that USCIS does not need and is unnecessary to achieve its regulatory objectives. USCIS should not require naturalization applicants to submit duplicative records (e.g. previously submitted evidence of birth, marriage, divorce, or criminal dispositions).

Additionally, USCIS should consider amending the many questions in Part 12 that seek overbroad or unnecessary information. To be eligible for naturalization, an applicant generally must establish that they were “lawfully admitted” and have been a person of “good moral character” during the statutory period, and meet continuous residency requirements.⁴ However, many questions in Part 12 of the Form N-400 go beyond these eligibility requirements and seek information from time periods that are entirely irrelevant to an applicant’s eligibility for naturalization. USCIS should tailor the scope of Part 12 and delete the words “[h]ave you EVER...” from many of the questions because such wording seeks information that reaches beyond the statutory period, and therefore has no bearing on whether a

⁴ INA § 316; 8 U.S.C. § 1427; INA § 319; 8 U.S.C. § 1430; INA § 328; 8 U.S.C. § 1439; INA § 329; 8 U.S.C. § 1440.



person is eligible for naturalization. Instead, as it does for address and employment history, USCIS should limit information sought in Part 12 to the applicant's statutory period.

B. Streamline Naturalization Interviews

First, USCIS should consider providing more applicants with the option to take the Oath of Allegiance on the same day as their naturalization interview. USCIS has already adopted a framework for conducting administrative naturalization ceremonies by designated USCIS officers⁵ and many jurisdictions have issued orders to the same effect.⁶ Expanding access to same-day swearing-in ceremonies would considerably expedite the naturalization process and reduce the backlog that has been multiplied by the coronavirus pandemic. As of August 2020, it was estimated that 300,000 people nationwide who would normally be eligible to naturalize would miss out on voting in the 2020 election because of the backlog of naturalization interviews and oath ceremonies.⁷ Furthermore, USCIS should allow for family members to have N-400 applications processed together (i.e. schedule biometrics, interview, and oath ceremonies at the same place/date at similar times). Reducing the number of required appearances, particularly within a single family, would increase access to naturalization for many applicants for whom it is difficult to make multiple appearances due to travel time or employment and familial obligations.

Recognizing that this may not be a viable option for all applicants, including those undergoing a name change requiring a judicial order, USCIS should consider conducting remote interviews and/or oath ceremonies when convenient or necessary, for example, for elderly or disabled applicants, or in a global pandemic. The statutory requirements for the Oath of Allegiance under the Immigration and Nationality Act ("INA") state that before being admitted to citizenship, a person shall take an oath in a public ceremony to support and defend the U.S. Constitution, bear allegiance to the United States, renounce foreign allegiances, serve in the U.S. Armed Forces, and perform noncombatant or civilian service for the United States, if needed.⁸ The statutory language does not expressly require that the applicant appear in person, only that "the administration of the oaths of allegiance under this section are public."⁹ The "in person" requirement comes from the corresponding regulation, noting that that an applicant "must appear in person in a public ceremony, unless such appearance is specifically excused."¹⁰ Since an in-person administration of the oath ceremony is not statutorily required and may be excused, USCIS is not prohibited from administering remote oaths. The agency has the discretion to

⁵ Administrative Naturalization Ceremonies, USCIS Policy Manual, U.S. CITIZENSHIP AND IMMIGRATION SERVICES, <https://www.uscis.gov/policy-manual/volume-12-part-j-chapter-5>.

⁶ See e.g., Second Supplemental Order Concerning Naturalization Ceremonies, General Order 20-30, U.S. District Court District of MA, Jun. 30, 2020, <https://www.mad.uscourts.gov/general/pdf/announce/Gen.Order20-30-Coronavirus-Supp.OrderreNaturalizationCeremonies.pdf>.

⁷ Shannon Dooling, *A Naturalization Crisis: 10,000 Would-Be Voters In Mass. Might Miss Out In November*, WBUR NEWS, Aug. 6, 2020, <https://www.wbur.org/news/2020/08/06/naturalization-us-voters-november>.

⁸ INA § 337; 8 U.S.C. § 1448.

⁹ INA § 337(d); see also 8 C.F.R. §337.1 ("[A]n applicant for naturalization shall, before being admitted to citizenship, take in a public ceremony held within the United States the following oath of allegiance.")

¹⁰ 8 C.F.R. §337.2(a).



interpret its own regulations in a manner that would allow for remote oath ceremonies, or to waive the in-person requirement it created.¹¹

C. Improve Technological Capabilities in Form Submissions and Monitoring

USCIS should consider expanding technological capabilities in submitting and processing naturalization applications. Specifically, USCIS should allow submission of the Form I-912 electronically to permit low-income naturalization applicants to apply to submit applications electronically and should also implement a reliable way to submit an updated Form G-28 after an application has been submitted. Additionally, the wet signature requirement policy successfully adopted during the coronavirus pandemic should be permanently extended, and the use of digital signatures should be permitted.

The agency has a federal directive to improve its technological capabilities. The President’s Office of Management and Budget (“OMB”) issued a memo in 2020 directing all federal agencies to “use the breadth of available technology capabilities to fulfill service gaps and deliver mission outcomes.”¹² The OMB memo goes on to emphasize that agencies are encouraged to leverage digital methods to meet mission needs, to include leveraging digital forms and electronic signatures to the fullest practicable extent.¹³ Furthermore, many other federal agencies already allow for electronic filing of documents.¹⁴ Electronic filing is even permitted by other entities involved with immigration matters. For instance, in the context of employment-based immigrant visas, parties are permitted to file electronic label certification applications with the Department of Labor for both permanent residents and nonimmigrant visa applicants.¹⁵

USCIS should consider expanding access to its existing e-filing system to allow non-attorney representatives within law firms or recognized organizations to create and access e-filing accounts. Many other government entities, such as the IRS, allow for account creation by non-attorneys. However, USCIS currently restricts access to attorneys and U.S. Department of Justice accredited representatives only. Expanding access to non-attorney staff will incentivize electronic filings and eliminate unnecessary administrative and economic barriers to both legal services organizations and law firms as well as eligible applicants seeking naturalization.

Additionally, the USCIS Online system is inefficient and challenging to use. This existing system should be made more efficient and expanded, including allowing attorneys and other legal representatives to use one USCIS Online account and account number to monitor all their active cases in

¹¹ Ethan Nasr & Peggy Gleason, *Remote Naturalization Oaths are Legally Permissible*, IMMIGRANT LEGAL RESOURCE CENTER, July 2020,

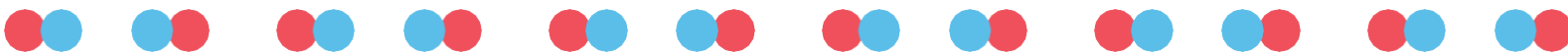
https://www.ilrc.org/sites/default/files/resources/remote_naturalization_oaths_are_legally_permissible.pdf.

¹² OMB, *Harnessing Technology to Support Mission Continuity*, March 22, 2020, <https://www.whitehouse.gov/wp-content/uploads/2020/03/M-20-19.pdf>.

¹³ *Id.*

¹⁴ IRS, *Electronic Filing Options for Individuals*, <https://www.irs.gov/filing/e-file-options>, (last updated Jan. 24, 2022).

¹⁵ See *Foreign Labor Certification Online Filing Systems*, U.S. DEP’T OF LABOR, https://www.plc.doleta.gov/eta_start.cfm?actiontype=home; see also *Foreign Labor Application Gateway*, U.S. DEP’T OF LABOR, <https://flag.dol.gov/>.



one place. Attorneys and accredited representatives should be able to link paper filed applications with their USCIS Online account when that doesn't happen automatically despite a paper filed Form G-28. In our experience, it does not happen automatically.

D. Improve Derivation of Citizenship Process

Another way USCIS could improve the process for naturalization applicants is to streamline the derivation of citizenship process for applicants' children. Currently, an eligible minor who derives citizenship from a U.S. citizen parent must submit a Form N-600 to obtain a Certificate of Citizenship. Although derivation of citizenship in such situations is automatic upon the naturalization of one's parent,¹⁶ the additional step of obtaining proof of such status through a separate application adds delay to an already time-consuming and complicated process. After filing a Form N-600, it is common for an applicant to wait more than a year to receive their Certificate of Citizenship. Currently, the Boston Field Office is not permitting inquiries on Forms N-600 that have been pending less than 17 months, and the Lawrence Field Office is not permitting inquiries on Forms N-600 that have been pending less than 19 months.¹⁷ For applicants who may not have any proof of their U.S. citizenship for the purposes of identification, travel, employment, education, this is a tremendous amount of time to wait.

One way to immediately simplify the process of deriving citizenship and cut down on the overall USCIS processing backlog would be allowing eligible individuals to obtain evidence of their citizenship automatically when their applicant parent files the Form N-400. This could be accomplished with a "Certificate of Citizenship" request checkbox, to be checked if the child is under eighteen, has a Legal Permanent Resident ("LPR") card, and is living with the applicant. Once the application for naturalization is conditionally approved, USCIS can prepare a Certificate of Citizenship for each minor LPR child that is living with the naturalization applicant which could be provided to the parent at their oath ceremony. This would substantially reduce Form N-600 filings and unnecessary waiting periods, simplify administrative hurdles for minors who are citizens as a matter of law, and eliminate review of redundant forms and evidence therefore conserving USCIS resources.

At minimum, USCIS should allow naturalization applicants the option to file a Form N-600 for minor LPR children living in their legal and physical custody concurrently with their Form N-400. The Forms N-400 and N-600 should then be processed simultaneously. Once the application for naturalization is conditionally approved, USCIS could then prepare a Certificate of Citizenship for each minor LPR child at the oath ceremony.

Adopting either of these recommendations would eliminate unnecessary delays and assist many naturalized citizen parents. Processing related forms within a single family simultaneously would also eliminate the review of redundant materials and conserve limited USCIS resources. It should be noted

¹⁶ INA § 320; 8 U.S.C. § 1431.

¹⁷ Processing Time for Application for Certificate of Citizenship (N-600) at Boston MA and Lawrence MA, U.S. CITIZENSHIP AND IMMIGRATION SERVICES, <https://egov.uscis.gov/processing-times/> (last visited June 15, 2022).



that USCIS has already adopted concurrent filing review processes, such as the case of a concurrent filing of Form I-485 and an underlying visa petition, which can be easily applied to the present context.¹⁸

II. Remove Unnecessary Barriers to Naturalization by Issuing a Notice to Appear Policy

Every year potential applicants, including some of our clients, who meet all the eligibility requirements for U.S. citizenship decide to forgo applying to naturalize. Although these individuals are eligible for naturalization, they are afraid they could be issued a Notice to Appear (“NTA”) in immigration court as a result.

Although U.S. Immigration and Customs Enforcement (“ICE”) is the agency that most frequently issues NTAs, there are instances in which USCIS is required by statute or regulation to issue an NTA. However, USCIS is never required by statute or regulation to issue an NTA because of information provided in an N-400 application. Instead, USCIS policy dictates when the agency will issue an NTA in such cases. Therefore, a USCIS policy prohibiting the issuance of NTAs based on information provided in an N-400 application does not conflict with statute or regulation. For the reasons outlined below, such a policy is desirable.

On November 7, 2011, USCIS issued a policy memorandum instructing officers to conduct a thorough review process that considers the totality of circumstances before issuing an NTA to naturalization applicants submitting a Form N-400.¹⁹ It established a rigorous review process and allowed for the exercise of prosecutorial discretion in many circumstances not to issue NTAs to naturalization applicants. However, on June 28, 2018, USCIS issued a policy memorandum which directed USCIS officials to issue NTAs directly to naturalization applicants in many circumstances.²⁰ On January 20, 2021, DHS Acting Secretary rescinded the June 28, 2018 policy memorandum.²¹ However, it is entirely unclear whether USCIS has returned to their prior practices as laid out in the November 7, 2011 memorandum with respect to naturalization applicants.²²

¹⁸ See Green Card Processes and Procedures, Concurrent Filing of Form I-485, U.S. CITIZENSHIP AND IMMIGRATION SERVICES, <https://www.uscis.gov/green-card/green-card-processes-and-procedures/concurrent-filing-of-form-i-485> (last updated Nov. 10, 2020).

¹⁹ See USCIS Policy Memorandum, Revised Guidance for the Referral of Cases and Issuance of Notices to Appear (NTAs) in Cases Involving Inadmissible and Removable Aliens (November 7, 2011), <https://www.uscis.gov/sites/default/files/document/memos/NTA%20PM%20%28Approved%20as%20final%2011-7-11%29.pdf>.

²⁰ See USCIS Policy Memorandum, Updated Guidance for the Referral of Cases and Issuance of Notices to Appear (NTAs) in Cases Involving Inadmissible and Deportable Aliens (June 28, 2018), <https://www.uscis.gov/sites/default/files/document/memos/2018-06-28-PM-602-0050.1-Guidance-for-Referral-of-Cases-and-Issuance-of-NTA.pdf>.

²¹ DHS Memorandum, Review of and Interim Revision to Civil Immigration Enforcement and Removal Policies and Priorities (January 20, 2021), https://www.dhs.gov/sites/default/files/publications/21_0120_enforcement-memo_signed.pdf.

²² See USCIS, Notice to Appear Policy Memorandum (last updated June 14, 2021), <https://www.uscis.gov/laws-and-policy/other-resources/notice-to-appear-policy-memorandum>.



As such, USCIS should issue specific, updated NTA guidance for officers and remove the uncertainty of the possibility of removal proceedings for naturalization applicants. This includes providing specific details about how the agency handles removable naturalization applicants so that applicants can be informed as to any risk they may be taking when applying for naturalization.

USCIS should look to existing internal policy, namely Deferred Action for Childhood Arrivals (“DACA”), when it issues more specific policy on issuing NTAs to naturalization applicants. Under DACA, USCIS is directed to use its prosecutorial discretion in not initiating removal proceedings against those who meet the eligibility criteria.²³ USCIS should employ a similar prosecutorial discretion to not initiate removal proceedings against naturalization applicants, who are eligible to naturalize. Adopting such a policy would promote USCIS’s goal of naturalizing statutorily eligible individuals. This will also bring USCIS into alignment with the goals of the Biden-Harris Administration, which emphasizes the need to remove barriers to naturalization, including fear.²⁴

III. Increase Access to Naturalization for Applicants with Disabilities

Specific training should be given to USCIS officers, particularly those who adjudicate applications for naturalization in conjunction with the Form N-648, on how to conduct interviews with disabled applicants. While many officers are helpful and patient with such applicants, there is often significant confusion around what is allowed for those applicants, and what is expected of them. It is important that consistent guidelines be implemented, and that officers be trained on those guidelines, when they may be assisting disabled applicants.

In addition, the process for a naturalization applicant to request a reasonable accommodation or home interview should be simplified. The Form N-400 includes space for an applicant to make an accommodation or home interview request in Part 3; however, in practice, the applicant must also make the request either online or over the phone before every appointment. This is not obvious, as it is not stated in the Form N-400 instructions, and it is an additional burdensome requirement for individuals with disabilities or impairments.

IV. Increase Access to Naturalization for Non-English Speakers

USCIS should communicate with exempt and excepted (based on the Form N-648) applicants in their native language. For example, all correspondence between USCIS and these non-English speaking applicants, such as appointment notices, should be in the applicant’s native language. These notices should also be simplified overall to make them more readable (including larger font) and readily understood.

²³ See USCIS Memorandum, Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children (June 15, 2012), <https://www.dhs.gov/xlibrary/assets/s1-exercising-prosecutorial-discretion-individuals-who-came-to-us-as-children.pdf>.

²⁴ Executive Order on Restoring Faith in Our Legal Immigration Systems and Strengthening Integration and Inclusion Efforts for New Americans (February 2, 2021), <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/02/02/executive-order-restoring-faith-in-our-legal-immigration-systems-and-strengthening-integration-and-inclusion-efforts-for-new-americans/>.



This effort should also be extended for the Form N-400, which should be translated into multiple languages for applicants who are exempt or excepted.

V. Minimize the Negative Impacts of COVID-19 Pandemic

A. Continuous Residence

USCIS should publish guidance on the effect of extended travel abroad (i.e. over six months or one year) due to COVID-19 on naturalization eligibility. Naturalization applicants who remained outside of the U.S. for over one year due solely to the pandemic should not be considered to have broken their continuity of residence. Furthermore, applicants who remained outside of the U.S. for over six months solely due to the pandemic should not have to rebut a presumption of a break in their continuity of residence.

B. Extended Response Time for Continuances

USCIS should continue to employ the ninety-day response time for continuances introduced during the COVID-19 pandemic. This extended time, especially for disabled applicants, makes the process of responding to continuances much more accessible than the previous response time allowed. Given that this extension has been employed without issue for the last two years, the extension should be made permanent.

VI. Conclusion

The mission of Project Citizenship is to provide free, timely, high-quality legal services, promote citizenship, and increase naturalization in Massachusetts and beyond. The proposed changes laid out in this comment will aid our efforts to increase citizenship and its many benefits by reducing the technical, logistical, and administrative barriers many of our clients face when attempting to naturalize and subsequently obtain proof of their children's U.S. citizenship. Furthermore, the proposed changes will increase USCIS's efficiency in processing applications, which will reduce the backlog of Form N-400 (and N-600) applications. Finally, these proposed changes will increase in the number of people who naturalize or have proof of their U.S. citizenship, which benefits the U.S. economy and contributes to a vibrant and dynamic democratic society.

If you require further information, please do not hesitate to contact our organization at info@projectcitizenship.org. Thank you for the opportunity to submit comments on the proposed extension.

Sincerely,



Mitra Shavarini
Executive Director

