



February 15, 2013

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

Via e-mail at: USCISFRComment@uscis.dhs.gov

**RE: OMB Control Number 1615-0052, USCIS Docket ID 2008-0025
Revisions to Form N-400, Application for Naturalization**

Dear Sir/Madam:

The American Immigration Lawyers Association (AILA) and the Catholic Legal Immigration Network, Inc. (CLINIC) respectfully submit the following comments regarding proposed changes to the N-400, Application for Naturalization and the accompanying instructions.

Founded in 1946, AILA is a voluntary bar association of more than 12,000 attorneys and law professors practicing, researching and teaching in the field of immigration and nationality law. Our mission includes the advancement of the law pertaining to immigration and nationality and the facilitation of justice in the field. AILA members regularly advise and represent businesses, U.S. citizens, U.S. lawful permanent residents, and foreign nationals regarding the application and interpretation of U.S. immigration laws.

CLINIC supports a national network of community-based legal immigration services programs. The network includes over 210 affiliated immigration programs, operating out of 350 offices in 47 states. CLINIC's network employs roughly 1,200 staff including attorneys and accredited representatives who, in turn, serve over 700,000 low income immigrants each year. Citizenship and integration has been a priority for CLINIC for more than a decade. CLINIC's citizenship

assistance projects have enabled tens of thousands of poor and marginalized immigrants to receive professional assistance in filing their citizenship applications.

Reduce The Burden on Applicants by Shortening the Form

The proposed changes to the Form N-400 more than double the length of the form – from 10 pages to a daunting 21 pages – creating an undue burden for applicants and hindering the pace and efficiency of group naturalization workshops. Additionally, the form’s length will inevitably lead to longer adjudication times and processing delays. The increased length is due to a number of additional questions, formatting changes, and the new bar code which appears at the bottom of each page.

We recommend that USCIS shorten the proposed form to reduce the burden on naturalization applicants and workshop participants. One way to do this would be for the agency to develop a generic form that applicants may attach to any application to provide additional information that will not fit on the form. The creation of one attachment form for several applications will not overly burden USCIS, will ensure uniformity in response format for the N-400 and other applications, and will shorten the length of applications. In this case, the N-400 application form could provide two areas to respond to Part 4, question 3 (Where have you lived during the last 5 years); Part 7 (Information About Your Employment and Schools You Attended); and Part 10 (Information About Your Children). Additional information pertaining to these three sections could be listed on the attachment, making the N-400 two to three pages shorter and less intimidating to users.

As explained in more detail below, USCIS could also shorten the form by eliminating questions that seek information that is not relevant to eligibility for naturalization or that is already available to USCIS through other means. We also encourage USCIS to review its technology to reduce the size of the bar code in order to use less space.

Eliminate or Modify Requests For Information That Do Not Affect Eligibility for Naturalization

Pages 4–5, N-400, Part 5: Information About Your Parents

Part 5 requests detailed information about the applicant’s parents; however, as the instructions for these questions make clear, if one of the applicant’s parents is a U.S. citizen, Form N-400 may not be applicable. We question the need for the additional details about the applicant’s parents. Does USCIS intend to evaluate the applicant’s eligibility for acquired or derivative citizenship, and issue a Certificate of Citizenship rather than proceeding with the naturalization application? If not, we recommend that the form be amended to include only the introductory note informing applicants that if one or both of their parents are U.S. citizens, they may not need

to file the N-400 and then only ask for the names and citizenship status of the applicant's parents. All other questions should be eliminated.

Page 9, N-400, Part 9(8)(C), (D), and (E): Information About Current Spouse's Prior Spouse(s)

The proposed N-400 now requests additional detailed information regarding the prior spouses of the applicant's current spouse, including date of birth, country of birth, and country of citizenship or nationality. This information in no way relates to the applicant's eligibility for naturalization, is overly burdensome to obtain, and the question should be removed from the form.

Page 10, N-400, Part 10 (2)(A)(3): Child's U.S. Social Security Number

We encourage USCIS to remove this request for the Social Security Numbers of the applicant's non-U.S. citizen children because this information has no bearing on the applicant's eligibility for naturalization. Furthermore, USCIS's purpose in seeking this personal and private information is not clear.

Page 14, N-400, Part 11 (13)–(20): Additional Information

USCIS is proposing to add a number of new questions to reflect the inadmissibility grounds added by the Intelligence Reform and Terrorism Prevention Act of 2004. USCIS states that these new questions "are necessary for USCIS to meet the statutory requirements and the President's directive to make a determination that a person is ineligible to naturalize because of his or her past involvement with terrorism, persecution, torture, or genocide."¹ To accomplish this, USCIS proposes to remove question 11 of the current form which reads, "Have you **ever** persecuted (*either directly or indirectly*) any person because of race, religion, national origin, membership in a particular social group, or political opinion?" and replace it with a series of questions (13-20), each with numerous subparts. For example, new Question 13 seeks information on past acts of genocide, torture, and persecution, while new Question 14 sets forth detailed sub-questions on participation in military or insurgent groups as follows:

14. Were you **ever** a member of, or did you ever help or participate in, any of the following groups:
- A. Military unit?
 - B. Paramilitary unit? (*group of people who act like a military group*)
 - C. Police unit?
 - D. Self-defense unit?

¹77 Fed. Reg. 75440, 75441 (Dec. 20, 2012).

- E. Vigilante unit? (*group of people who act like the police, but are not the police*)
- F. Rebel group?
- G. Guerilla group? (*group of people who use weapons to attack the real military, police, government, or other people*)
- H. Militia? (*An army of citizens. Not the professional military.*)
- I. Insurgent organization? (*group that uses weapons and fights against a government*)

Similarly, Question 15 poses detailed questions on past work or activities in a prison, detention facility, or other similar camp as follows:

15. Were you **ever** a worker, volunteer, or soldier in any of the following:

- A. Prison?
- B. Prison camp?
- C. Detention facility? (*place where people are forced to stay*)
- D. Labor camp?
- E. Any other place where people were forced to stay?

The remaining questions 16 through 20 seek information about groups that have used weapons against other people; participation in the sale or transfer of weapons; military, paramilitary, or weapons training; and recruitment or conscription of child soldiers.

While a number of these new questions relate to conduct that may negatively impact the applicant's eligibility for naturalization and are not covered by other existing questions, we are concerned that many of the questions are overly broad and go beyond the grounds of inadmissibility outlined in the statute. For example, simply being a member of a military, paramilitary, police, self-defense, or other organization does not necessarily mean that the person engaged in activity that would bar naturalization. Furthermore, any activity that might have taken place as a result of such affiliations, which may impact the applicant's eligibility, would be disclosed in response to Question 13, relating to genocide, torture, killing, or other harm.

Question 15 is also overly broad in that it is not limited to information that will have a meaningful impact on the applicant's naturalization eligibility. For example, working as a prison guard is a lawful type of employment. It may also be lawful to detain or house people in certain circumstances, such as the detention of criminals in prisons or other facilities, or the housing of wards of the state in orphanages or the chronically disabled in state-run group homes.

Questions 16, 17, 18, and 19 could also encompass lawful activity. For example an applicant could answer "Yes" to all of the questions in question 16 merely because he was employed by a legitimate military or prison unit. Similarly, Questions 18 and 19 could concern purely

legitimate military service. In addition, while Question 17 seems to relate to the material support bar, the question as worded is too broad. Selling or helping to sell weapons is not necessarily an unlawful activity, even if those weapons are known to be used against another person, particularly when issues of self-defense are involved. For all of these reasons, we encourage USCIS to carefully review questions 13 through 20 and modify them so that they are more narrowly tailored to the relevant statutory inadmissibility provisions.

Modify and Correct Ambiguous Questions to Improve Clarity and Reduce Burdens

The proposed Form N-400 contains a number of questions that should be reworded or slightly modified to increase the applicant's understanding of the question and, in turn, the accuracy of the information provided. In addition, these modifications will make the application clearer and less burdensome on the applicant.

Page 1, N-400, Part 1: Information About Your Eligibility

Part 1, as currently worded, leads with the statement, "I am at least 18 years old **AND** ..." which indicates that all applicants must be 18 years of age, regardless of the basis for their application. However, the minimum age requirement may be waived for individuals applying on the basis of their military service under INA §329. Question 4, relating to qualifying military service, should be amended to reflect that possibility.

Page 2, N-400, Part 2 (12): Exemptions from the English Language Test

We recommend changing the language of Part 2, Question 12, for greater clarity and to better reflect USCIS's practice with regard to English language test exemptions. We propose the following language, which is based on information found on the USCIS website.²

- A. Are you **50 years of age or older** and have you lived in the United States as a permanent resident for periods totaling at least **20** years at the time of filing your Form N-400?
- B. Are you **55 years of age or older** and have you lived in the United States as a permanent resident for periods totaling at least 15 years at the time of filing your form N-400?
- C. Are you **65 years of age or older** and have you lived in the United States as a permanent resident for periods totaling at least **20** years at the time of filing your form N-400?

²U.S. Citizenship and Immigration Services, Exceptions & Accommodations, <http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnnextchannel=ffe2a3ac86aa3210VgnVCM100000b92ca60aRCRD>.

The proposed language will clarify that the exemptions from the English language test apply to applicants that are 50, 55, and 65 years of age, not just those who are older. Similarly, the relevant language in the accompanying instructions should also be changed to reflect USCIS practice and mirror the above recommended language.

Page 7, N-400, Part 8 (and Page 6, Instructions): Time Outside the United States

We encourage USCIS to modify Part 8, questions 1 and 2, which ask the applicant to provide the total number of days spent outside the United States and the total number of trips taken outside the United States “**since becoming a permanent resident.**” The proposed questions are unduly burdensome to applicants who have been permanent residents for a very long period of time prior to filing the N-400 application. We recommend using the current N-400 language, which only requests information regarding days spent and trips taken outside of the United States “**for the past five years.**”

In addition, we note that question 3, which requires the applicant to list the precise dates of entry and exit for each trip taken is sometimes overly burdensome and difficult for applicants to detail accurately, particularly when the trips took place several years ago and there is no passport stamp with the entry and exit dates. We recommend that USCIS explain in the accompanying instructions how applicants should answer question 3 if they are unable to recall specific dates.

Page 8, N-400, Part 9 (5): Is Your Current Spouse a U.S. Citizen?

This question includes incorrect cross-references and should be corrected to read:

If “Yes,” answer **Item Number 6**

If “No,” go to **Item Number 7**

Page 10, N-400, Part 9 (9)(B): Your Prior Spouse’s Immigration Status

This question should be modified to reflect the language included in the accompanying instructions as follows:

B. Your prior spouse’s immigration status **during your marriage**

Page 10, N-400, Part 10 (2): Information about Biological and Adopted Children

USCIS should clarify whether or not the applicant is required to provide the information requested in question 2 as it pertains to stepchildren. Though the introductory paragraph to Question 2 does not mention stepchildren (“[p]rovide the following information about all of your **biological and legally adopted children**...”), question 1 references stepchildren, and the check boxes in question A.7, B.7, C.7, and D.7 in question 2, relating to the child’s relationship to the applicant, include an option for “Current stepchild.” Assuming USCIS wants the applicant to list

detailed information regarding stepchildren, the introductory sentence to **Part 10, Question 2** should be modified to read:

*Provide the following information about **all of your biological, legally adopted, and current stepchildren (sons and daughters)**.*

The accompanying instructions will also require a similar change.

Page 12, N-400, Part 11 (2) & (3): Additional Information (Unlawful Voting)

We recommend changing the language of these questions to eliminate the possibility of unnecessarily flagging non-citizen applicants who have voted lawfully within the United States. In some areas, non-citizens are permitted to vote in local elections. Therefore, the following changes to questions 2 and 3 are proposed.

2. Have you ever **unlawfully** registered to vote in any Federal, State, or local election in the United States?
3. Have you ever voted **unlawfully** in any Federal, State, or local election in the United States?

Page 14, N-400, Part 11 (13)(D): Additional Information (Hurting Another Person)

We encourage USCIS to modify Part 11, Question 13D, “Were you **ever** involved in any way with ... Badly hurting, or trying to hurt, a person on purpose?” to more narrowly tailor it to solicit information that will impact the applicant’s ability to naturalize. We recommend that USCIS rephrase this question as follows: “Were you **ever** involved in any way with ... the persecution (*either directly or indirectly*) of any person because of race, religion, national origin, membership in a particular social group, or political opinion?” This would more accurately reflect the political undertone of the subparts within Question 13 and would eliminate unintended admissions.

Page 15, N-400, Part 11 (22): Additional Information (Prior Arrests/Citations)

Part 11, Question 22 asks whether the applicant has “**ever** been arrested, cited, or detained by any law enforcement officer (including any, and all immigration officials or the U.S. Armed Forces) for any reason?” The accompanying instructions state that the applicant does not “**need to submit documentation** for traffic fines and incidents (unless it was alcohol or drug related) that did not involve an actual arrest if the penalty was only a fine of less than \$500 or points on your driver’s license.” While it is clear that documentation of these incidents need not be submitted, USCIS must clarify on the form whether the applicant should answer “yes” or “no” to question 22 if he or she was involved in a non-alcohol or drug-related traffic offense or incident

that did not involve an actual arrest where the penalty was a fine of less than \$500 or points on his or her driver's license.

Page 16, N-400, Part 11 (30): Additional Information (Fraud/Misrepresentation)

Question 23 in the current form asks, "Have you ever given false or misleading information to any U.S. Government official **while applying for any immigration benefit or to prevent deportation, exclusion, or removal?**" This question, as worded, coincides with the inadmissibility grounds for misrepresentation under INA §212(a)(6)(C)(i). In the proposed form, USCIS has modified this question by eliminating the limitation on immigration benefits. This question should either be changed to reflect the language in Question 23 in the current form, or USCIS must explain why it is expanding the scope of this question to the provision of any false or misleading information to the U.S. government.

Page 18, N-400, Part 12 (and Page 8, Instructions): Your Signature

We recommend that the N-400 signature block include a reference informing the applicant that a designated representative may sign the form if the applicant is unable to sign due to a physical or developmental disability or mental impairment. The accompanying instructions to this section should clarify who qualifies as a "designated representative."

Page 18, N-400, Part 13 (and Page 8, Instructions): Interpreter's Statement and Signature

The proposed form and instructions are inconsistent in their descriptions of when the interpreter's statement and signature section must be completed. The certification statement on the form provides, "I further certify that I have read **each and every question and instruction on this form** . . ." While the instructions state, "[a]n interpreter must complete this section of Form N-400 if an interpreter was used to complete **any question(s) on Form N-400.**" We ask USCIS to clarify exactly when the certification statement must be completed and signed. For example, in an application workshop setting, would a volunteer who clarified a single term in a particular question be required to sign the statement? Would one person who explains the form to a group of people at an information session be required to sign all of their application forms? We are also interested in learning more about the agency's rationale for including this certification on the N-400, when it is not routinely included on other USCIS forms.

Miscellaneous Changes to Accompanying Instructions

Page 1: A Guide to Naturalization

USCIS should include the National Customer Service Center 1-800 number as a means for obtaining a copy of the USCIS Guide to Naturalization, to accommodate individuals who do not have access to the Internet.

Page 1: General Eligibility Requirements (#4 and #9)

Requirement 4 contains a typographical error: “**require** period of time” should be corrected to “**required** period of time.”

The following (**bold**) language should be added to requirement 9: “You swear an Oath of Allegiance to the United States. Some applicants may be eligible for a modified oath **or a waiver based on a physical or developmental disability or mental impairment.**”

Page 2: Naturalization Testing

There is a typographical error in the second Note on page 2, which refers to **Part 2, Item Number 12** of the Form N-400. The correct item number (regarding the medical waiver) is 11.

Page 5: Question 10, Second and Third Paragraphs

The first sentence of the second paragraph on page 5 should be amended to read, “If you are deaf or hearing impaired and are requesting a sign language interpreter, indicate which language **in the space provided.**” The instructions currently state “...**in Part 1**” which does not make sense.

In addition, the second sentence in the third paragraph on page 5 currently references “**Part 2, Item Number 12.**” This should be amended to reference “**Part 2, Item Number 10.**”

Page 9: Required Evidence (Copy of Permanent Resident Card)

We recommend that the accompanying instructions provide applicants with information on what to do if their Permanent Resident Card has been lost or stolen by referring them to USCIS’s “Guide to Naturalization,”³ which includes this information.

Page 9: Required Evidence (Court Disposition Records)

We recommend adding to the **NOTE** in the instructions that providing information in records that are sealed, expunged, or otherwise cleared may negatively impact the applicant’s eligibility to naturalize.

Page 9: Required Evidence (Birth Certificates)

The instructions ask the applicant to submit birth and/or adoption certificates for all of the applicant’s biological and adopted children. These documents are not requested in the current N-400 instructions and it is not clear why they would be required as initial evidence. Requiring

³ U.S. Citizenship and Immigration Services, A Guide to Naturalization, <http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=598da2f39b1ab210VgnVCM100000082ca60aRCRD&vgnnextchannel=598da2f39b1ab210VgnVCM100000082ca60aRCRD>

these documents does not align with traditional USCIS practices and places an unnecessary burden on the applicant.

Page 11: What Is the Filing Fee?

As currently worded, the paragraph under the note implies that an applicant must provide two separate checks for the filing fee and the biometrics fee. The instructions should be clarified to indicate that an applicant may submit one check for both fees.

Page 12: Processing Information (Requests for More Information or Interview)

The instructions as currently written indicate that “USCIS *may* request more information or evidence, or request that you appear at a USCIS office for an interview.” As an interview is always required, this language is confusing and should be clarified.

Thank you for your consideration of these comments to the proposed revisions to Form N-400 and instructions.

Sincerely,

The American Immigration Lawyers Association
The Catholic Legal Immigration Network, Inc.