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Office of Public Engagement  
United States Citizenship and Immigration Services  
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Via e-mail: [opefeedback@uscis.dhs.gov](mailto:opefeedback@uscis.dhs.gov)

**Re: AILA Comments on USCIS Interim Memorandum,  
Eligibility for Members of the National Guard of the United  
States to Naturalize under INA §329 and Acceptance of  
NGB Form 22 as Certification of Military Service for National  
Guard Veterans; AFM Update AD10-42**

The American Immigration Lawyers Association (AILA) submits the following comments on the above-referenced USCIS interim policy memorandum.

### **Introduction**

AILA is a voluntary bar association of more than 11,000 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. permanent residents, and foreign nationals regarding the application and interpretation of U.S. immigration laws. We appreciate the opportunity to comment on this interim memorandum and believe that our members' collective expertise provides experience that makes us qualified to offer views that will benefit the public and the government.

AILA appreciates the opportunity to comment on the draft policy memorandum, "Eligibility for Members of the National Guard of the United States to Naturalize under INA §329 and Acceptance of NGB Form 22 as Certification of Military Service for National Guard Veterans; Revision to the *Adjudicator's Field Manual* (AFM) Chapter 72.2(d)(3); AFM Update AD10-42. We applaud USCIS for issuing this long-awaited guidance which should help ensure that naturalization applications filed by members of the National Guard are properly and fairly adjudicated.

We would, however, like to take this opportunity to point out a couple of issues. First, the memorandum provides that an applicant who files for naturalization while still in the National Guard, must submit proof of service through a properly annotated Form N-426, Request for Certification of Military or Naval Service. The memorandum then provides that an applicant who files for naturalization after separation from the National Guard must provide proof of service through submission of NGB Form 22, National Guard Report of Separation and Record of Service. The memorandum does not, however, address “transition” cases, where the applicant is in the National Guard when he or she files the N-400, but is discharged from the Guard before N-400 processing is completed. For such transition cases, we ask that the Service recognize that NGB Form 22 may also be accepted to meet the requirements of INA §329, and the veteran should not be required to refile the naturalization application.

A problem may also arise when the characterization of service on an N-426 conflicts with the characterization of service on a later-filed NGB Form 22, often as a result of military administrative error. For example, a National Guard member requests certification of the N-426 and a unit administrator issues the N-426 with the service listed as “uncharacterized” because the person is in entry-level status. The person files an application for naturalization, and USCIS requests additional evidence of qualifying military service. The person has since been honorably discharged, and receives an NGB Form 22. In such cases, USCIS should accept the NGB Form 22 and not require the veteran to refile the entire N-400 package.

### **Conclusion**

AILA appreciates the opportunity to comment on this interim memorandum and we look forward to a continuing dialogue with USCIS on issues concerning this important matter.

Sincerely,

THE AMERICAN IMMIGRATION LAWYERS ASSOCIATION