



CATHOLIC LEGAL
IMMIGRATION
NETWORK, INC.

Strategies for Naturalizing the Most Vulnerable Applicants

**A Guide to Helping Refugees and Immigrants Who
Are Elderly, Disabled, Low-Income, Low-Literate,
and Limited English Proficient**





415 Michigan Ave. NE, Suite 200
Washington, DC 20017-4503
phone 202.635.2556
fax 202.635.2649
www.cliniclegal.org

COVER PHOTO CREDITS (left to right):
Jeff Chenoweth; Mandy Morgan; © LAURA SIKES

Copyright February 2008
2nd Edition, December 2011

Catholic Legal Immigration Network, Inc., Washington, DC.
All rights reserved. U.S. government use unrestricted.

This document was prepared with funding from the federal Office of Refugee Resettlement, the Carnegie Corporation of New York, and the John S. and James L. Knight Foundation. The opinions expressed in this document are CLINIC's and do not necessarily reflect the positions or policies of the funders. CLINIC is very grateful for the funders' support.

This document is intended to provide accurate information on the subject matter covered, as of the date of publication. It is not a substitute for legal advice. If legal or other expert assistance is needed, the reader should consult with a competent professional. Naturalization is a legal process with serious and far-reaching consequences. Any individual providing legal assistance to an applicant in the naturalization process should be either an attorney or a Board of Immigration Appeals (BIA) accredited representative.

Table of Contents

Introduction	3
I. Automatic English Exemptions for Older Applicants	5
II. Due Consideration for Applicants with Limited English, Lack of Formal Education, Advanced Age, or Other Factors	7
III. Reasonable Accommodations for All Disabled Applicants.....	9
IV. Disability Waivers for Applicants with Certain Serious Disabilities	13
V. Oath Waivers for Severely Disabled Applicants.....	19
VI. Fee Waivers for Low-Income Applicants	22
VII. Priority or Expedited Processing for Elderly or Disabled Refugees Losing Supplemental Security Income (SSI)	25
Summary of Links, References, and Resources	27

INTRODUCTION

Refugees and immigrants strongly desire U.S. citizenship. Yet, many of them, especially those who are elderly, disabled, low-income, low-literate, and limited English proficient, face serious challenges in the naturalization process. These challenges can impede their integration and their civic participation in U.S. society.

The English requirement is probably the single, biggest barrier to naturalization. A study by the Pew Hispanic Center found that a majority, or 55%, of immigrants currently eligible to naturalize are limited English proficient.¹ Immigration law requires citizenship applicants to demonstrate an ability to read, write, and speak “simple words and phrases” in English and to demonstrate a knowledge of U.S. history and civics. All applicants are given two opportunities to pass the citizenship test. For applicants who came to the U.S. at an advanced age, the prospect of learning a new language is daunting. Those who are illiterate in their native language or have low levels of formal education in their native country, as well as those who use a non-Roman alphabet in their native language, may also find it extremely difficult to meet the English test requirement.

People with disabilities face even greater challenges. Disability-based waivers of the citizenship testing requirements are difficult to obtain from the U.S. Citizenship and Immigration Services (USCIS), requiring agencies to work very closely with doctors, disabled applicants, and their families. USCIS released a new and improved Form N-648 (Medical Certification for Disability Exceptions) in 2010, yet doctors continue to make mistakes or fail to provide the right kind of information. This requires the disabled applicant to visit the doctor two or three times, sometimes at great cost. In addition, local USCIS adjudication of waivers is sometimes inconsistent with policy guidance issued by USCIS headquarters.

Many disability waiver applicants are vulnerable elderly and disabled refugees who will lose their Supplemental Security Income (SSI) under the seven-year limit imposed by welfare reform unless they naturalize. In some refugee communities, mental impairments such as Post-Traumatic Stress Disorder, depression, or dementia are common and often stem from refugees’ experience of persecution.

In addition to the English requirement, another major barrier to naturalization is the fee of \$680 for the citizenship application. Many refugees and immigrants, primarily those who are elderly, disabled, or limited English proficient, are low-income. The Pew Hispanic Center study cited earlier found that 52% of immigrants currently eligible to naturalize are low-income.² The high citizenship application fee may prevent or delay many refugees and immigrants from applying for naturalization. A new USCIS fee waiver application form released in 2010 helps to standardize the application process and clarify the eligibility criteria. However, working poor applicants – those whose income is too high to meet the criteria for a fee waiver yet too low to afford the fee – may find it difficult to qualify for a fee waiver. Professional assistance is needed to ensure that low-income refugees and immigrants apply for citizenship without delay and submit the required documentation to qualify for a fee waiver.

Despite the challenges of the English language requirement and the high application fee, refugees and immigrants still want to become U.S. citizens. Citizenship gives people a stronger voice and facilitates their integration and empowerment. For vulnerable elderly and disabled refugees who must naturalize in order to retain their SSI benefits (and in some states, their Medicaid benefits as well), citizenship can sometimes be a matter of life and death. This guide will outline strategies and provide resources for naturalizing the most vulnerable applicants, focusing on those who are elderly, disabled, low-income, low-literate, and limited English proficient. It is aimed at readers who already have a basic, working knowledge of immigration law.

1 Passel, J.S. *Growing Share of Immigrants Choosing Naturalization* (Washington, DC: Pew Hispanic Center, March 28, 2007).

2 Ibid.

What Does the Citizenship Test Look Like?

English reading	The applicant is given up to three sentences and must be able to read at least one sentence. The English reading sentences are all <i>history/civics related sentences</i> based on a vocabulary list available on the USCIS website.
English writing	The applicant is given up to three sentences and must be able to write at least one sentence. The English writing sentences are all <i>history/civics related sentences</i> based on a vocabulary list available on the USCIS website.
English speaking	The applicant must be able to answer questions about the citizenship application (N-400) and follow directions during the interview. USCIS officers receive training with suggestions for re-wording difficult questions on the N-400.
U.S. history & civics	The applicant is given 10 questions from a list of 100 and must answer at least 6 questions correctly. This is an oral test. The history/civics questions are drawn from a list of 100 study questions available on the USCIS website.

I. Automatic English Exemptions for Older Applicants

Nga, age 75, came to the U.S. in 1992. She has been attending citizenship classes for the last year at a Vietnamese community center, to prepare for the test. She has learned to speak a few English words and phrases, but is unable to read or write anything in English. She is also illiterate in Vietnamese.

Applicants who are age 50 or older and have had lawful permanent resident (LPR) status for many years may qualify for an automatic exemption from the English reading, writing, and speaking requirement. They may instead take the history and civics test in their native language, using an interpreter. These provisions are found in INA § 312 (b).

Eligibility Requirements

50/20: If the applicant is age 50 or older and has been an LPR for 20 years or more, he/she qualifies for an automatic exemption from the English requirement.

55/15: If the applicant is age 55 or older and has been an LPR for 15 years or more, he/she qualifies for an automatic exemption from the English requirement.

Special Consideration (65/20): If the applicant is age 65 or older and has been an LPR for 20 years or more, he/she qualifies for an automatic exemption from the English requirement AND qualifies to take an *easier* history/civics test that is based on a shorter list of 20 study questions. The special consideration questions are marked with an asterisk on the [list of 100 questions](#), available at <http://www.uscis.gov>.

Note: In order to receive the exemption, the applicant must meet the age and residency requirements *on the day he/she files* the N-400 application.

Q. Where on the N-400 do I note that my client has an English exemption?

A. Write it in large, red letters at the top of the N-400, for example, “55/15 ENGLISH EXEMPTION.” You may also write this on the blank lines provided in Part 3(I).

Q. My client qualifies for the automatic English exemption, but she is illiterate in her native language. Does she need to be able to read and write for the history/civics test in her native language?

A. No. The literacy requirement is part of the English requirement, so the applicant is *not* required to be literate in her native language. Also, the history/civics test is an oral test. In these circumstances, it would be given with an interpreter.

Q. Where can I find the 100 questions in other languages?

A. The questions are available in Spanish, Chinese, Tagalog and Vietnamese on the [USCIS website](#), and in 15 additional languages on the [CLINIC website](#).

Q. If my client has an English exemption, does she need to bring her own interpreter to the interview?

A. USCIS regulations state that an interpreter may be selected by the applicant or by USCIS, but that USCIS can disqualify an interpreter who behaves inappropriately (8 C.F.R. § 312.4). Local practices vary. You should find out if your local USCIS office allows applicants to bring their own interpreters, or provides interpreters for them. An interpreter should be fluent in both English and the applicant’s native language, not simply a family member who wants to help.

Q. *My client is over age 55 and has taken several brief trips outside the U.S. since becoming an LPR. Do I have to deduct that time from her 15 years?*

A. No. The 15 (or 20) years does not have to be continuous, as long as she remained an LPR during those trips abroad, and did not abandon her residency.

Tips for Interpreters

- Translate exactly what the USCIS officer or applicant says. Do not coach the applicant, add anything, or explain. Do not give helpful hints to the applicant during the interview.
- Speak only when interpreting. When not interpreting, sit quietly. Do not ask questions or interfere with the interview in any way.

II. Due Consideration for Applicants with Limited English, Lack of Formal Education, Advanced Age, or Other Factors

Mohamed, age 40, works long hours in the kitchen of a restaurant. He is not exposed to English on the job, where most of his co-workers speak Spanish. He has only a third grade education in his native country. He has been living in the U.S. for 10 years and has been diligently studying for the citizenship test for the last year with a tutor who comes to his home on weekends. There are very few citizenship classes available in his community, and due to his work schedule, he is not able to attend any of the classes.

Applicants with certain backgrounds and circumstances that make it difficult for them to learn the material for the citizenship test may receive due consideration on the test. Due consideration is a provision in the immigration regulations that allows USCIS officers to use their discretion to give an easier history/civics test to certain applicants. The regulations state:

“In choosing the subject matters, in phrasing questions and in evaluating responses, due consideration shall be given to the applicant’s education, background, age, length of residence in the U.S., opportunities available and efforts made to acquire the requisite knowledge, and any other elements or factors relevant to an appraisal of the applicant’s knowledge and understanding” (8 CFR § 312.2 (c) (2)).

Due Consideration Factors

Some examples of circumstances that may warrant due consideration are: lack of formal education, advanced age, long residence in the U.S., long-term and consistent attendance in citizenship or English classes, lack of access to classes, inability to attend classes due to work or family obligations, and limited opportunities to speak English in the workplace.

Q. *What is the pass rate for the citizenship test?*

A. The current pass rate as this guide is going to print is 92%. This should be encouraging news for applicants who are nervous or fearful about taking the test.

Q. *How can I apply for due consideration?*

A. Due consideration is discretionary, and requires the USCIS officer to make a judgment call. There is no formal process to apply for due consideration, or to appeal its denial. However, you can request that USCIS provide due consideration in a letter. The letter provides information about the applicant’s background and circumstances that may not be available in the citizenship application, allowing the USCIS officer to make a more informed decision on whether to use due consideration. A sample letter is available at <http://cliniclegal.org/citizenship>.

Q. *When do I submit the due consideration request?*

A. You can include the request as an attachment to the N-400, or simply bring it to the citizenship interview. If the request is included with the N-400, it is a good idea to bring a copy to the interview as well.

Q. *What if the USCIS officer is overly demanding of my client, or fails him for a simple mistake? What can I do?*

A. Immigration law requires applicants to be able to read, write, and speak words “in ordinary usage in the English language” and to read and write “simple words and phrases” (INA § 312 (a) (1)). In addition, USCIS guidelines on testing state that applicants should not be failed for spelling, capitalization, or punctuation errors on the writing test unless they “would prevent a reasonable person from understanding what the sentence means” (see reference below, page 3). If you think the USCIS officer is going beyond the law or policy on the test, tell him/her so. If the officer is not responsive to your concerns, ask to speak to a supervisor before the interview is over. Also, be sure to get the officer’s name. If the supervisor is not available or responsive to your concerns, write down exactly what happened in detail and bring the case to the attention of your local USCIS office through a meeting or a letter to the field office director or adjudications supervisor. If the case is part of a pattern, you should document other, similar cases and present all the cases together to the local office. Your letter should conclude with a specific request for how you want USCIS to fix the problem, your contact information, and a timeframe for USCIS to follow up. In addition, you should send a copy of the letter to your USCIS district director.

Reference

[USCIS scoring guidelines for the citizenship test](#)

Highlights of the Scoring Guidelines

- USCIS officers are required to repeat and rephrase questions during speaking test until the officer is satisfied that the applicant either fully understands the question or does not understand English.
- An applicant shall not be failed because of spelling, capitalization, punctuation, or grammatical errors on the writing test unless the errors would prevent understanding the meaning of the sentence.
- An applicant shall not be failed because of his/her accent when speaking English.
- An applicant shall not be failed because of pronunciation or intonation errors on the reading test unless the errors interfere with the meaning of the sentence.

III. Reasonable Accommodations for All Disabled Applicants

Abebe, age 52, is legally blind due to advanced glaucoma. As a result, he is unable to read or write. However, he is able to speak English fairly well, and has been studying the U.S. history/civics test questions with the help of a friend.

All applicants with disabilities have the right to receive reasonable accommodations in the naturalization process and the citizenship test. Reasonable accommodations are modifications of USCIS policies and procedures that enable people with disabilities to participate in the naturalization process, and reduce any disadvantages they face as a result of their disability.

Legal Basis for Reasonable Accommodations

Reasonable accommodations are mandated by § 504 of the Rehabilitation Act of 1973, which protects people with disabilities from discrimination. Section 504 states:

“No otherwise qualified individual with a disability in the United States ... shall, solely by reason of her or his disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance ... or conducted by any Executive agency.”

Q. *How does the law define disability?*

- A. According to the Americans with Disabilities Act (ADA), an individual with a disability is a person who:
- Has a physical or mental impairment that substantially limits one or more major life activities;
 - Has a record of such an impairment; or
 - Is regarded as having such an impairment.

The ADA regulations state that major life activities include functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

Note: Many elderly applicants are disabled by chronic health problems, and therefore can request accommodations in the citizenship test and interview. For example, an applicant with severe arthritis in his/her hands may request additional time to write the English dictation sentences.

Q. *What's the difference between reasonable accommodations and waivers?*

- A. Reasonable accommodations do not waive the naturalization requirements. Applicants still have to meet the requirements, but the manner in which they meet them is modified to accommodate their disability. For example, a person who is bedridden in a nursing home is still required to have a citizenship interview, but the interview may be conducted at his/her residence as a reasonable accommodation.

Examples of Reasonable Accommodations

- Having a sign language interpreter to help a deaf applicant communicate during the citizenship test.
- Providing a written citizenship test for a deaf or hearing-impaired applicant who is unable to hear and respond to oral questions.
- Providing an oral citizenship test for a blind or sight-impaired applicant who is unable to read and write.
- Ensuring that the office where USCIS takes fingerprints and interviews applicants is wheelchair accessible.
- Asking the USCIS officer to speak loudly or slowly or repeat the questions for an applicant who is hearing-impaired or has a developmental disability.
- Providing additional time for an applicant with a mental impairment to complete the citizenship test.
- Allowing an applicant with a mental impairment to bring a family member or friend to the citizenship interview to help him/her remain calm and responsive.
- Allowing a person who is paralyzed to signal his/her responses to questions using non-verbal communication, such as blinking or tapping.
- Allowing a legal guardian to testify on behalf of a mentally disabled applicant at the citizenship interview.
- Providing an alternative criminal background check process for an applicant who is unable to provide fingerprints because he/she has no hands.

Q. *Do blind and deaf applicants need a waiver of the English reading, writing, or speaking requirements?*

- A.** Not necessarily. Many blind and deaf applicants will be able to complete the citizenship test with reasonable accommodations, and will not need a disability waiver. For example, a blind applicant can take an oral test (in English) as an accommodation, and is not required to read and write, so a disability waiver is not always needed. Similarly, a deaf applicant may be able to complete the citizenship test using a sign language interpreter or a written (English) format, and is not required to speak. If accommodations are not sufficient to allow a blind or deaf applicant to complete the citizenship test, then a disability waiver should be considered.

Procedures for Requesting Reasonable Accommodations

- At the time of filing the N-400, complete Section I in Part 3 of the application. Also write in large letters across the top of the N-400, “ACCOMMODATIONS NEEDED.”
- If requested *after* filing the N-400, submit a letter to your local USCIS explaining what disability the applicant has, how it affects the applicant, and what accommodations are needed. For a sample letter, refer to <http://cliniclegal.org/citizenship>. Bring the letter to the interview or, if the accommodation requires advance planning by USCIS, notify the local USCIS office before the interview. According to the USCIS website, you should schedule an INFOPASS appointment well in advance of the interview date in order to make the accommodations request verbally and submit it in writing.
- For further information, refer to the [USCIS website](#).

Q. *How can I notify my local USCIS office of a reasonable accommodations request before the interview?*

A. You should schedule an INFOPASS appointment at your [local office](#) well in advance of the interview date to notify USCIS verbally and in writing of your accommodations request.

Q. *Is a doctor’s certification needed?*

A. A doctor’s certification of the disability is *not* required for a reasonable accommodations request. However, in rare cases, USCIS may request a letter from the doctor certifying the disability when it is not apparent and there is some question about the applicant’s eligibility for accommodations. If the applicant’s disability is not apparent, then it is advisable to bring a doctor’s letter just in case it is requested.

Q. *Can USCIS deny an accommodations request?*

A. According to USCIS policy guidance on accommodations, the agency can deny a request if it would result in a “fundamental alteration in the nature of the naturalization program” for the individual applicant or it would create “undue financial and administrative burdens” for USCIS (p. 3). This situation would be extremely rare. If a request is denied, USCIS is required to provide the applicant with an alternative accommodation.

Q. *What can I do if an accommodations request is denied?*

A. Ask to speak to a supervisor before the interview is over. If the supervisor also denies the request and the applicant is denied naturalization as a result, he/she may file a § 504 civil rights complaint for discrimination based on a disability, while also appealing the denial with a Form N-336. The § 504 complaint is *in addition* to the regular appeals process for a denied N-400.

How to Prepare a § 504 Complaint

The complaint describes the applicant’s disability and describes in detail what happened at the USCIS office and when. The name of the USCIS officer who handled the case should be included, if known. Also include the name of the applicant, his/her A-number, and his/her contact information as well as the name and contact information for any person assisting the applicant with the complaint. A [fillable complaint form](#) is available on the Department of Homeland Security (DHS) Office for Civil Rights and Civil Liberties website. The form is available in English and several other languages. Additional information is provided at <http://www.dhs.gov/xabout/structure/crcl.shtm>.

Q. *Where do I send the complaint?*

A. You can e-mail your complaint to crcl@dhs.gov or mail it to the DHS Office for Civil Rights and Civil Liberties (CRCL). Send a copy to the director of the local USCIS office where the incident happened and the director of USCIS headquarters. The addresses for CRCL and USCIS headquarters are listed below. Mail the complaint by certified mail with a return receipt. Be sure to keep a copy for your records.

Department of Homeland Security
Office for Civil Rights and Civil Liberties
Review and Compliance
245 Murray Lane, SW
Building 410, Mail Stop #0190
Washington, DC 20528

Director
U.S. Citizenship and Immigration Services
20 Massachusetts Avenue, NW
Washington, DC 20529

References

It is important to read and become familiar with USCIS' policy guidance on reasonable accommodations so you can be a good advocate for your client. Your client could be assigned a USCIS officer who is not very familiar with the guidance.

[USCIS policy guidance on reasonable accommodations, 1/21/03](#)

[USCIS policy guidance on fingerprint waivers, 11/15/99](#)

Highlights of the Reasonable Accommodations Policy Guidance

Each field office must:

- Have procedures for handling all requests, regardless of when they are made.
- Designate staff to handle requests.
- Provide information to applicants on how to request reasonable accommodations from the field office.
- Review requests in a timely fashion.
- Strive to provide all requests without delay.
- Inform applicants in the rare case a request is rejected, and provide an alternative.

IV. Disability Waivers for Applicants with Certain Serious Disabilities

Khadija, age 69, has been diagnosed with vascular dementia due to a series of strokes she suffered about 10 years ago, before she came to the U.S. A CT scan shows brain damage. Her symptoms include memory impairment, confusion, short attention span, weakness on one side of her body, and difficulties with activities of daily living such as cooking and caring for her herself. She lives with her daughter, who takes care of her.

Applicants with certain kinds of disabilities may qualify for a disability waiver of the citizenship testing requirements. A disability waiver is an exemption from the English and/or history and civics testing requirements based on a disability that prevents the applicant from learning or demonstrating the knowledge required for the citizenship test. Disability waivers are authorized in INA § 312 (b) (1). A disability may be physical, mental, or developmental. It may be a single, severe disability or a combination of disabilities that, when experienced together, result in a severe level of impairment.

Eligibility Criteria

- The applicant must have a medically determinable physical or developmental disability or mental impairment.
- The disability (or disabilities) must be so severe that the applicant is *unable* to learn English, history, or civics. **Note:** A disability that merely makes it *difficult* for the applicant to learn is not sufficient.
- The disability must be permanent (lasting or expected to last at least 12 months).
- The disability cannot be the result of illegal drug use.
- The applicant must be unable to pass the citizenship test with reasonable accommodations.
- The disability must be certified by a licensed medical doctor, clinical psychologist, or doctor of osteopathy on the Form N-648 (Medical Certification for Disability Exceptions).

Q. *Does the medical professional completing the N-648 have to be a civil surgeon?*

A. No. Any licensed medical doctor, clinical psychologist, or doctor of osteopathy who has examined the applicant and evaluated his/her disability can complete the N-648.

Ineligible Conditions

Old age, by itself, is not a disability and does not qualify an applicant for a disability waiver. However, USCIS has noted that there are many conditions *associated* with old age, such as senile dementia, that may qualify for a waiver.

Illiteracy or lack of a formal education in one's native country is not a disability and does not qualify an applicant for a disability waiver. However, some people are illiterate due to learning disabilities, which are a type of mental impairment that may qualify for a disability waiver.

Q. What does “medically determinable” mean?

A. Medically determinable means:

- Having an impairment that results from anatomical, physiological, or psychological abnormalities.
- The impairment can be shown by medically acceptable clinical or laboratory diagnostic techniques.
- The impairment has resulted in functioning so impaired that it renders an applicant unable to demonstrate the required knowledge or unable to participate in the testing procedures.

Examples of Different Types of Disabilities

Physical disabilities are general medical conditions: diabetes, cancer, stroke, high blood pressure, heart disease, heart attack, hyperlipidemia (high cholesterol), cerebral arteriosclerosis (hardening of the arteries in the brain), chronic pain, blindness, deafness.

Mental impairments affect a person’s ability to reason or think clearly: Alzheimer’s disease, dementia, post-traumatic stress disorder (PTSD), depression, schizophrenia, bipolar disorder, panic disorder.

Developmental disabilities are present before adulthood: Down’s Syndrome, mental retardation, autism, learning disorder, communication disorder.

Note: These disabilities may or may not qualify for a disability waiver, depending on their severity and the level of impairment they create. Sometimes people have multiple disabilities that, in combination, create a severe level of impairment. There is no list of disabilities that automatically qualify for a waiver. Applicants are evaluated for eligibility on a case-by-case basis.

Q. Where can I get the Form N-648?

- A. [Form N-648](http://www.uscis.gov)** is available on the USCIS website at <http://www.uscis.gov>. From the home page, select “Immigration Forms” from the banner at the top of the page. The N-648 is available as a “fillable” form that can be filled out and printed from the USCIS website.

Tips for Completing the Form N-648

- All parts of the form must be completed by the medical professional, except for the applicant attestation and the interpreter certification.
- It is important for the legal representative to carefully review the completed N-648 and ensure it is complete *before* submitting it to USCIS. This may mean going back to the medical professional several times for additional information. Remember: The applicant has only two opportunities to submit a complete N-648.
- The legal professional should check to be sure that an interpreter signed the N-648, especially when the applicant does not speak English and the medical professional does not speak the applicant’s native language.
- The N-648 *must* be legible. It is best to have the medical professional type it, using the fillable version on the USCIS website.

- The medical professional must avoid using medical jargon. The disability must be explained in lay terms that a person without medical training can understand.
- It is not advisable for the medical professional to mention an applicant's illiteracy or lack of formal education, as this information is usually irrelevant and may trigger a denial.
- The medical professional must describe the origin (cause) of the condition (if known), as well as the clinical methods used in diagnosing the condition.
- The medical professional must answer question number ten sufficiently. This question is the key to the N-648 and is the area that causes the most problems.
- The legal representative is *not* allowed to complete the N-648 for the medical professional's signature. The N-648 must be completed by the medical professional or his/her staff.
- The medical professional must provide the DSM-IV code for any mental impairments (question number one).
- It is important that the N-648 is consistent with any previous N-648s submitted, and does not include any conflicting information. USCIS will look at all N-648s, not just the most recent one, in determining the applicant's eligibility for a waiver.
- Always keep a copy of the N-648 for your records.

Types of Medical Professionals

Medical Doctors (M.D.s)

Medical doctors have a degree in medicine (M.D.) from a board-certified medical school. They are usually internists (focusing on internal medicine) or family practice doctors. Some medical doctors are specialists who focus on diagnosis and treatment of certain kinds of diseases:

- Ophthalmologists specialize in eye diseases.
- Audiologists specialize in hearing loss problems.
- Cardiologists specialize in heart diseases.
- Neurologists specialize in diseases of the nervous system, including the brain and spinal cord.

Psychiatrists (M.D.s)

Psychiatrists are medical doctors (M.D.s) who specialize in the diagnosis and treatment of mental illnesses.

Clinical Psychologists (Ph.D.s)

Clinical psychologists usually have a Ph.D. in psychology or counseling. They can diagnose and counsel for mental illnesses.

Doctors of Osteopathy (D.O.s)

Osteopaths have a medical degree (D.O.) that combines traditional and chiropractic medicine. They can be generalists or specialists in a particular area of medicine. In the U.S., osteopaths are doctors who can practice the same as M.D.s.

Q. *What is the DSM-IV?*

- A.** The DSM-IV is the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition. This is a catalog of mental disorders that is used by mental health professionals in diagnosing patients. It contains a detailed description of the symptoms of each disorder.

Question #10: The Connection

Question number ten is the key to the entire application, and the most difficult question for medical professionals to explain and articulate. This question states:

Clearly describe how the applicant's disability and/or impairment(s) affect his or her ability to demonstrate knowledge and understanding of English and/or civics.

Key Points:

- Here, the medical professional needs to describe the specific symptoms associated with the disability that make the applicant unable to learn the test information.
- It is also helpful to describe how the impairment affects the applicant on a daily basis. For example, is the applicant able to take care of herself, or does she need help with cooking, cleaning, grocery shopping, bathing, paying bills, transportation, etc.?
- Some background information about the applicant should be included, especially when it is relevant to the diagnosis. For example, "The patient is a 65-year old male who came to the U.S. from Cuba in 1998. While in Cuba, the patient experienced... which led to PTSD."

Q. *What information should I give to the medical professional completing the N-648?*

- A.** Often, medical professionals do not take the time to read the N-648 instructions. Therefore, it is advisable for the legal representative to include a letter on agency letterhead with key information about disability waivers, along with the contact information for the applicant's legal representative. Sample letters are available at <http://cliniclegal.org/citizenship>. In addition, sample responses to the questions, especially question ten, may be helpful in illustrating what the USCIS is looking for in the N-648. Sample responses are provided on page two of the N-648 instructions.

Q. *What if the medical professional cannot fit his/her response in the space given? Can he/she put the response in a letter instead?*

- A.** According to USCIS instructions, the medical professional *must* use the space provided on the N-648. If he/she runs out of space, an additional sheet of paper can be used to complete the answer to the question. However, the medical professional cannot use a letter in lieu of the N-648 form.

Q. *Should the medical professional submit medical records or other supporting documentation with the N-648?*

- A.** This is generally not necessary unless the first N-648 is found to be insufficient, or you are appealing a denial. The key document that USCIS will use to evaluate the applicant's eligibility is the Form N-648 itself.

Q. *What if the applicant has only seen the medical professional once, to complete the N-648? Will this negatively affect the application?*

- A.** The USCIS policy guidance does not specifically bar waivers from medical professionals who have only seen the applicant one time. This situation typically occurs when the professional is a specialist in diagnosing a particular condition. In our experience the N-648 application will be stronger if the applicant can show that he/she has been seeing the medical professional on a regular basis.

Q. *I'm a social worker. Can I help my client with the N-648 and citizenship application?*

A. Only an attorney or Board of Immigration Appeals (BIA) accredited representative is authorized to provide advice and assistance in completing immigration forms. Other individuals, even if well-meaning, could harm a client by providing the wrong advice. A social worker could *assist* the attorney or BIA representative in gathering the information needed for the N-648.

Q. *Does the N-648 expire?*

A. The N-648 must be submitted within six months after the medical professional completes and signs it. Once it is timely submitted, the N-648 does not expire.

Q. *Can a learning disability qualify the applicant for a disability waiver or reasonable accommodations?*

A. A learning disability must be diagnosed and documented by a qualified professional, such as a psychologist or psychiatrist. The professional conducts a formal, comprehensive assessment by administering different kinds of tests. (This is a separate process from the N-648 application.) As part of the assessment, the professional also makes recommendations for meeting the individual's learning needs. A learning disability may qualify an applicant for reasonable accommodations if it entails a high degree of limitation. In order to qualify for a disability waiver, the learning disability would have to be so severe that it makes the applicant *unable* to learn or demonstrate knowledge of English, history, or civics. The USCIS policy guidance does not address learning disabilities specifically. For more information about learning disabilities, visit the website of the Learning Disabilities Association of America at <http://www.lidaamerica.org/>.

The Disability Waiver Process

- Form N-648 is filed as an attachment to the N-400 (Application for Naturalization). **Note:** The N-648 may be filed at the citizenship interview if necessary.
- The N-648 is evaluated during the citizenship interview.
- Applicants have two chances to submit a complete N-648.
- If, during the first interview, the first N-648 is found to be insufficient, the applicant receives Form N-14 with feedback on how the N-648 is insufficient and what additional information is needed. The applicant may then choose to either take the citizenship test or decline the test. If the applicant fails the test or declines to take it, he/she is scheduled for a second interview within 60 days.
- At the second interview, the applicant may submit a second N-648. The second N-648 is evaluated. If the second N-648 is not sufficient, the N-648 is denied and the applicant has the option of taking the citizenship test. If he/she fails the test or declines to take it, the citizenship application is denied.
- The applicant may appeal a denied N-400 within 30 days by filing Form N-336 with the required fee. A third N-648 may be submitted with the appeal, or brought to the appeal interview.

Q. *Are there any disadvantages to filing the N-648 at the time of the interview?*

A. USCIS prefers that it be filed together with the N-400. However, there is no penalty for filing the N-648 at the time of the interview.

Q. *Is there a lifetime limit on the number of N-648s a person can submit?*

A. No. Each time a person files the N-400, he/she will have two chances to submit a complete N-648. If the citizenship application is denied, the person can appeal the denial by filing the Form N-336 and submit a third N-648 at the appeal interview, or re-file the N-400 and get another two chances to submit the N-648.

References

It is important to read and become familiar with USCIS' policy guidance on disability waivers so you can be a good advocate for your client. Disability waiver cases are complex, and USCIS adjudicators do not always follow the guidance.

[USCIS policy guidance on disability waivers, 12/14/10](#)

Highlights of the N-648 Policy Guidance

The purpose of this guidance is to address significant internal and external feedback received over the last several years by USCIS from stakeholders concerning Form N-648. This guidance supersedes all previous guidance on N-648s and revises pertinent chapters of the Adjudicator's Field Manual. Highlights are listed below.

- USCIS should not question the medical validity of the medical professional's opinion except to the extent that the opinion does not establish eligibility or raises factual questions related to the N-648 form. (p. 2)
- The USCIS officer must not draw any negative inference regarding the applicant's medical condition as a result of filing the N-648 after the N-400. (p. 5)
- The absence of a reported medical condition on other immigration-related documents does not form the basis to question the validity of the N-648. (p. 8)
- The medical professional is not required to address the effects of the medical condition(s) on the applicant's daily life. (p. 8)
- If the officer requests a supplemental N-648 from another medical professional, he/she must articulate reasons for doubting the veracity of the information in the N-648 and must consult and receive approval from a supervisor. (p. 14)
- Any findings of fraud in the N-648 process must be articulated in the N-400 denial letter. (p. 15)

V. Oath Waivers for Severely Disabled Applicants

Juan, age 23, came to the U.S. with his parents 15 years ago. He was born with severe developmental disabilities, and requires 24-hour care. He has very limited speech, movement, and mental capacity. His parents want him to become a U.S. citizen.

Some applicants are so severely disabled that they are unable to express their desire to be a U.S. citizen and give their assent to the oath of allegiance, even with reasonable accommodations. These applicants may apply for an oath waiver. Some examples of conditions that may require an oath waiver are: coma, advanced Alzheimer’s disease, and profound mental retardation.

The Oath Requirement

Immigration law requires that a citizenship applicant be “attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the United States” (INA § 316(a)(3)). This is demonstrated, in part, through the oath of allegiance. USCIS policy guidance further explains that a citizenship applicant must understand that he/she is:

- Becoming a U.S. citizen;
- Giving up allegiance to his/her native country; and
- Personally and voluntarily agreeing to a change in status.

There is an exception for certain applicants who are unable to understand or communicate an understanding of the oath because of a physical or developmental disability or mental impairment. Congress passed a law on November 6, 2000 allowing these severely disabled applicants to obtain an oath waiver. This law became effective immediately, and states:

“The Attorney General may waive the taking of the oath by a person if in the opinion of the Attorney General the person is unable to understand, or to communicate an understanding of, its meaning because of a physical or developmental disability or mental impairment” (INA § 337 (a)).

Note: The oath waiver does *not* waive any of the other requirements for naturalization. The applicant will still need to have good moral character, for example. If the applicant cannot learn the information for the citizenship test (as in most oath waiver cases), he/she will need to apply for a disability waiver as well.

Applying for an Oath Waiver

The request for an oath waiver can be made at any time in the naturalization process. Normally, it is made when the N-400 is filed, by completing Part 3, Section I in the N-400 or by attaching a letter to the N-400. The oath waiver request must include a written evaluation completed by a licensed medical or osteopathic doctor or a licensed clinical psychologist. If the applicant has more than one doctor, the evaluation should be completed by the doctor who has had the longest relationship with the applicant or who is most familiar with the applicant’s medical history. The evaluation must:

- explain the applicant’s condition or disability;
- describe how and why the disability makes the applicant unable to understand or communicate an understanding of the oath;

- explain the likelihood of the applicant being able to understand or communicate an understanding of the oath in the near future; and
- include the doctor’s signature and state license number.

Having a Designated Representative

In most cases, an oath waiver applicant will be unable to respond, in any way, to the USCIS officer’s questions about the N-400 and therefore will need a designated representative to act and testify on his or her behalf. The designated representative must be either:

- a legal guardian or surrogate appointed by a court or state agency; or
- a *U.S. citizen* spouse, parent, adult son or daughter, or adult brother or sister.

The legal guardian or surrogate must submit official documentation of his or her guardianship or custody from the appropriate state authority or court. The family member acting as a designated representative must submit evidence of his or her U.S. citizenship and relationship to the applicant. A son, daughter, brother, or sister must also submit evidence that he or she has primary custodial responsibility for the applicant.

If the designated representative fills out the N-400 for the applicant, he or she is required to sign the preparer’s box in Part 12 and, if the applicant is unable to sign, the signature box in Part 11.

Q. *What if my oath waiver client has no legal guardian, and none of his immediate family members are U.S. citizens?*

A. One of the family members will need to obtain legal guardianship status so he/she can be the applicant’s designated representative. For assistance with legal guardianship status, consult with an attorney specializing in family law. Community legal aid clinics and law school clinics may be able to provide free or low-cost assistance.

Q. *In the absence of any other qualifying representative, can an adult stepchild not adopted by the applicant, but familiar with the applicant, qualify as a designated representative?*

A. The policy guidance states that the adult son or daughter must be: 1) a U.S. citizen; and 2) the primary caretaker with primary custodial responsibility for the applicant. It also states that the son or daughter must establish that he or she met the INA definition of “child” at some time (see INA § 101(b)(1)). That definition includes a stepchild “whether or not born out of wedlock, provided the child had not reached the age of 18 years at the time the marriage creating the status of stepchild occurred.”

Demonstrating an Understanding of the Oath with Reasonable Accommodations

Most disabled applicants will *not* need to apply for an oath waiver. They will be able to show, during the naturalization interview, that they understand they are becoming a United States citizen and swearing allegiance to the United States. Depending on the type of disability, an applicant may not understand the standard language of the oath. If necessary, the applicant’s understanding of the oath can be communicated in the simplest form as a *reasonable accommodation* for his/her disability. For example, the applicant can be asked questions such as:

- Do you want to stay in the United States?
- Do you want to be a citizen like other people born in this country?
- Would you do anything to hurt America?

The USCIS officer and legal representative should agree on an appropriate modification of the oath-related questions for the disabled applicant during the naturalization interview. As an accommodation for a non-verbal applicant, the officer must accept a physical response to oath-related questions, such as blinking, nodding, or tapping. Also as an accommodation, a family member, legal guardian, or advocate can be allowed to repeat the officer's questions directly to the applicant to facilitate a response. Applicants who are unable to leave their home because of a severe disability may ask USCIS to give the oath at their place of residence. This is another form of an accommodation.

In some cases, the oath may be given immediately following the interview as an accommodation. In other cases, the disabled applicant will attend a regular oath ceremony with other applicants. Each situation is handled on a case-by-case basis, depending on the needs of the disabled applicant. See chapter three for more information about reasonable accommodations.

References

[USCIS policy guidance on oath waivers, 6/30/03](#)

[USCIS memorandum on the role of legal guardians or proxies in naturalization proceedings, 3/13/02](#)

VI. Fee Waivers for Low-Income Applicants

Sonia is a refugee and single mother of three children who often struggles to make ends meet. Her income from her full-time job barely covers her expenses, so she hasn't been able to save any money. She receives food stamps and childcare assistance from the government. She wants to apply for citizenship, but is concerned about how she will pay the application fee.

Applicants who are low-income and unable to pay the application fee for the N-400 may apply for a fee waiver. To qualify, they must be able to substantiate that they are unable to pay the fee. Fee waivers are discretionary and are granted on a case-by-case basis. Fee waivers are discussed in 8 CFR § 103.7 (c).

Fee Waiver Application Procedures

The applicant should submit Form I-912 (Request for Fee Waiver). However, this form is not mandated.

Eligibility

USCIS will consider three criteria in determining whether an applicant is unable to pay the fee:

- Whether the applicant is currently receiving a federal or state means-tested benefit. This includes food stamps, Medicaid, Supplemental Security Income (SSI), Temporary Assistance for Needy Families (TANF), and other benefits.
- Whether the applicant's household income at the time of filing is at or below 150% of the poverty level found in the [Health and Human Services \(HHS\) poverty guidelines](#).
- Whether the applicant has a financial hardship such as recent unemployment, high medical expenses, or other situations.

Note: According to the USCIS policy guidance, "Each fee waiver request is unique and should be considered on its own merits."

Q. *Can I select more than one eligibility criterion for my client?*

A. Yes, but the applicant only has to meet one of the three criteria to qualify for the fee waiver.

Q. *For household income, how does USCIS define a household?*

A. In the Form I-912 instructions, USCIS states that a household consists of the persons identified on the applicant's Federal tax return. If the tax return is not available, the household would include the applicant, his/her spouse, and certain family members who live with the applicant.

Q. *How do I calculate 150% of the poverty level?*

A. [Form I-912P \(2011 HHS Poverty Guidelines for Fee Waiver Request\)](#) on the USCIS website has the calculations listed for various household sizes. Alternatively, you can look up the income listed for the applicant's household size on the HHS chart and multiply that figure by 1.5 to get 150% of the poverty level.

Q. *Does USCIS look at the applicant's gross income or net income?*

- A.** USCIS generally looks at the applicant's adjusted gross income, which is calculated and listed on the Federal tax return. Adjusted gross income is the taxable income minus exemptions and deductions. If the tax return is not available, then USCIS would look at other documentation of income.

Documentation

There are many examples of supporting documentation provided in the Form I-912 instructions. Supporting documentation should be as recent as possible. It should be presented in the order that it is referenced in the application and with page numbers. Documents should also be labeled if needed.

Examples of Documentation

- Official letter or notice from a benefit-granting agency showing the name of the agency, the recipient, and current receipt of the benefit
- Federal tax return
- Pay check stubs for at least the past month
- Statement from employer on business stationary showing salary or wages paid
- Proof of unemployment (layoff notice, proof of unemployment benefits, etc.)
- Mortgage payment receipts
- Rent receipts
- Food and clothing receipts
- Utility bills (gas, electricity, telephone, water, etc.)
- Child care receipts
- Tuition bills
- Transportation expense receipts
- Medical expense receipts
- Documentation of debts (loans, credit cards, etc.)
- Documentation of assets (checking and savings accounts, property, stocks, etc.)
- Affidavits

Q. *How much documentation is needed for my client?*

A. It depends on which eligibility criterion is selected. If the client is applying based on receipt of a means-tested benefit and submits evidence, such as a letter from the benefit-granting agency, this is sufficient. Similarly, if the client is applying based on low income and submits the most recent Federal tax return, this is sufficient. More extensive documentation is needed if the client is applying based on financial hardship.

Q. *How should I package the fee waiver application?*

A. Attach it to the top of the N-400 before mailing. Write on the mailing envelope and at the top of the N-400 in red letters, "FEE WAIVER REQUESTED."

Q. *Do I need to include the biometrics fee, or will that be waived as well?*

A. Do not include the biometrics fee. If the N-400 application fee is waived, then USCIS will waive the biometrics fee as well.

Note: Applicants age 75 or older are not required to be fingerprinted, so they do not need to pay the biometrics fee when applying for citizenship.

Q. *Who makes decisions on fee waiver applications?*

A. Fee waiver requests are adjudicated by USCIS officers in the office where a benefit application is filed. For citizenship applications (N-400s), this usually means at one of the two lockbox facilities.

Q. *How will I know if the fee waiver is approved or denied?*

A. If the fee waiver is approved, the applicant receives a receipt in the mail for the N-400 application. If the fee waiver is denied, the entire N-400 application package is returned to the applicant along with a letter explaining the reason for the denial.

Q. *What if a fee waiver request is denied? Can I appeal?*

A. There is no appeal process for denied fee waivers. However, the applicant will receive a letter explaining the reasons for the denial, and can re-apply with additional information and evidence.

Q. *What if I feel that my client's fee waiver request was denied in error? How can I bring a case to USCIS' attention?*

A. Send an e-mail to Lockboxsupport@dhs.gov with your client's case information. Alternatively, you may try re-submitting the request with a cover page on top asking for a supervisor to look at it.

Q. *Will a fee waiver delay the citizenship application?*

A. USCIS' stated goal is to adjudicate all fee waiver requests within five days of receipt. Regardless of how long it takes to adjudicate a fee waiver request, applications are processed from the date they are received in the mail, and this is the date given on the N-400 receipt.

References

[USCIS fee waiver application form \(I-912\)](#)

[USCIS policy guidance on fee waivers, 3/13/11](#)

VII. Priority or Expedited Processing for Elderly or Disabled Refugees Losing Supplemental Security Income (SSI)

Ludmilla is a 75 year old refugee who came to the U.S. in 2005. She applied for citizenship in 2010, but was denied when she failed the English test. She has been attending citizenship classes regularly since then and would like to re-apply. Unless she becomes a citizen, she will lose her SSI benefits in 2012 when she reaches the seven-year limit.

The national average processing time for citizenship applications is currently about five months. Local office times vary, and may be shorter or longer depending on application volume, staffing resources, and management practices. Elderly or disabled refugees and asylees who will soon lose, or have already lost, their SSI benefits due to the seven-year limit imposed by welfare reform may request priority or expedited processing of their naturalization application.

Priority Processing

USCIS will give priority processing for certain applicants when:

- 1) Their SSI benefits will be terminated within one year AND
- 2) Their N-400 has been pending for at least four months from the date of receipt.

For more information, refer to the [8/12/11 USCIS update](#) on the website, <http://www.uscis.gov> under “News.”

Q. *How can I request priority processing for my client?*

A. If the N-400 has already been submitted, you should schedule an INFOPASS appointment to make your request, or send a letter to your local USCIS office with a copy of the SSI termination notice. If the N-400 has not yet been submitted, you should flag the application by writing “SSI” in bold letters at the top of the N-400 and include a copy of the SSI termination notice.

Expedited Processing

Severe financial loss is one of several criteria USCIS will consider for expedite requests. The [full list of criteria](#) can be found on the USCIS website at <http://www.uscis.gov>. Click on “Forms” at the top of the page and then select “Expedite Criteria” on the right side.

Note: The USCIS expedite criteria are for all kinds of applications, not only the N-400.

How to Request Expedited Processing

To make an expedite request, the applicant or representative should call the National Customer Service Center (NCSC) at 1-800-375-5283. You may also schedule an INFOPASS appointment or send a letter to your local USCIS office director. The letter should explain the applicant’s situation and include supporting documentation, such as the SSI termination letter.

Q. *What's the difference between priority processing and expedited processing?*

A. Priority processing is a special procedure created by USCIS for citizenship applicants facing a loss of SSI benefits. Expedited processing is a general procedure available to any applicant who meets the criteria, for any kind of application.

Q. *Which kind of processing should I request?*

A. If the loss of benefits is imminent and the applicant has not been waiting four months, you may want to try requesting expedited processing as an advocacy strategy in lieu of priority processing, since priority processing requires the N-400 to be pending for at least four months.

Summary of Links, References, and Resources

Introduction

[Vocabulary list for the English reading test](#)

[Vocabulary list for English writing test](#)

[List of 100 history/civics study questions](#)

I. Automatic English Exemptions for Older Applicants

[List of 20 history/civics questions for special consideration applicants \(marked with an asterisk on the list of 100 questions\)](#)

[Translations of the 100 questions](#)

II. Due Consideration for Applicants with Limited English, Lack of Formal Education, Advanced Age, or Other Factors

[Sample letter requesting due consideration](#)

[USCIS scoring guidelines for the citizenship test](#)

III. Reasonable Accommodations for All Disabled Applicants

[Sample letter requesting reasonable accommodations](#)

[USCIS instructions for requesting reasonable accommodations](#)

[Websites of local USCIS field offices](#)

[§ 504 complaint form](#) (DHS Civil Rights Complaint Form)

[DHS Office for Civil Rights and Civil Liberties website](#)

[USCIS policy guidance on reasonable accommodations, 1/21/03](#)

[USCIS policy guidance on fingerprint waivers, 11/15/99](#)

IV. Disability Waivers for Applicants with Certain Serious Disabilities

[Form N-648](#)

[Sample letter to a client's doctor](#)

[Sample response to question ten](#)

[Learning Disabilities Association of America](#)

[USCIS policy guidance on disability waivers, 12/14/10](#)

V. Oath Waivers for Severely Disabled Applicants

[USCIS policy guidance on oath waivers, 6/30/03](#)

[USCIS memorandum on the role of legal guardians or proxies in naturalization proceedings, 3/13/02](#)

VI. Fee Waivers for Low-Income Applicants

[USCIS fee waiver application form \(I-912\)](#)

[HHS poverty guidelines](#)

[Form I-912P \(2011 HHS Poverty Guidelines for Fee Waiver Request\)](#)

[USCIS policy guidance on fee waivers, 3/13/11](#)

VII. Priority and Expedited Processing for Elderly or Disabled Refugees Losing SSI

[USCIS update on priority processing](#)

[USCIS criteria for expedited processing](#)



CATHOLIC LEGAL
IMMIGRATION
NETWORK, INC.

415 Michigan Ave. NE, Suite 200 • Washington, DC 20017
202.635.2556 • www.cliniclegal.org