

THE NATURALIZATION APPLICATION PROCESS

This section presents an overview of the naturalization application process experienced by the majority of applicants. Those who have unique eligibility status or conditions requiring additional forms or steps may find more detailed information in *A Guide to Naturalization* (Form M-476), produced by the U.S. Citizenship and Immigration Service (USCIS), or *Citizenship for Us: A Handbook on Naturalization and Citizenship*, by the Catholic Legal Immigration Network, Inc. (CLINIC). The description of the naturalization process below is given from the applicant's perspective. Challenges and barriers in the process posed by USCIS are described in a separate section.

Steps in the Naturalization Application Process

- Step One: Eligibility Determination**
- Step Two: Application Preparation**
- Step Three: Application Completion and Filing**
- Step Four: Fingerprints and Biometric Information**
- Step Five: Interview and Test**
- Step Six: Oath Ceremony and Certificate**

Step One: Eligibility Determination

The applicant determines his or her eligibility based on many factors including: 1) age, 2) length of Lawful Permanent Resident status, 3) continuous residency in the United States and length of residency in the USCIS district where the application will be adjudicated, 4) possession of "good moral character," 5) absence of ineligibilities due to breaches of civil, criminal, or immigration laws, 6) English-language proficiency, 7) knowledge of U.S. history and civics, 8) capacity to understand and affirm the oath of allegiance, and 9) ability to pay the fee. Applicants are likely to determine their own eligibility based on the knowledge they have of naturalization law, through advice from friends and family who have become citizens, with assistance from an uncertified immigration counselor, or through paid representation from a certified immigration counselor or private attorney. Receiving assistance from a qualified professional gives applicants the confidence to make an application swiftly.

A simple list of eligibility requirements does not serve as a final checklist for making an application. Every requirement has origins in legislation or regulation with legal nuances that can be overlooked by the unassisted or unrepresented applicant. Furthermore, the Application for Naturalization (N-400) asks up to 107 questions related to

the requirements that can appear inconsequential but have severe ramifications. Each question requires a fully informed response.

Ineligibility for citizenship takes two forms. A permanent bar necessitates that the intending applicant not file for naturalization because it will result in his or her removal from the country. A conditional bar, on the other hand, is based on a temporary situation that can be addressed. Knowing the difference between permanent and temporary ineligibility is one of the most important reasons why applicants are strongly advised to seek a legal immigration consultation from an immigration attorney or an accredited representative of the Board of Immigration Appeals (BIA).

Two primary goals of a national citizenship implementation plan are linked to eligibility. The first is to expand the immigrant community's knowledge of citizenship eligibility requirements through broad, sustained public education. Lack of awareness of citizenship's benefits and eligibility requirements is one of the top reasons given by this study's interviewees as to why immigrants do not apply or delay applying. The second goal is to make members of the immigrant community aware of the qualified legal immigration services and assistance available that can ensure their protection from enforcement action and allow them to access the help they need to become citizens.

Step Two: Application Preparation

Applicants need to have all primary and secondary documentation required to file an N-400 application and complete a naturalization interview. It is important to use a checklist. Three primary documents are necessary to file the application: 1) a two-sided photocopy of a Permanent Resident Card (I-551), 2) two, full-face, color photographs, with name and alien registration number written on both on the back, and 3) a check or money order for

the total filing fee for fingerprints and processing the application. If an attorney or accredited representative is acting on the applicant's behalf, a Notice of Entry of Appearance as Attorney or Representative (G-28) is included with the package, preferably with a cover letter from the attorney or representative. The G-28 ensures that both applicant and legal representative receive all USCIS notices for future appointments and determinations.

Secondary documents are filed if an applicant faces special circumstances or eligibility status. USCIS's *A Guide to Naturalization* (M-476) and the USCIS website provide a full list of secondary documents. Some of the most common are: 1) marriage, birth, and naturalization certificates to document eligibility based on another person's immigration status, 2) passport, 3) Internal Revenue Service (IRS) tax returns, rent or mortgage payments, and bank statements proving continuous presence, 4) IRS tax returns and/or child-support payment receipts demonstrating good moral character, 5) an original, complete, court-ordered copy of any arrest record and disposition for each incident (dismissal order, conviction record, or acquittal), and 6) attachment sheets that provide needed extra information that does not fit on the N-400.

Only photocopies of primary and secondary documents should be mailed to USCIS unless originals are requested. Non-English documents must be translated into English with a letter from the translator certifying competency.

Applicants need to ensure that their ability to speak, read, and write English and to test successfully on U.S. history and civics is adequate to pass. If not, the applicant must determine if there is sufficient time before the interview to study and gain proficiency. For many, attending English-language and citizenship classes prior to, or after, the application is filed is essential since language deficiencies are often the reason for denial of citizenship.

Step Three: Application Completion and Filing

The N-400 application is available from a USCIS office, charitable legal immigration program, or private attorney. It is also posted electronically on the USCIS website. (The N-400 is a free government form. An applicant should not pay to receive a blank form.) The electronic form can be completed, but not submitted, on-line. It must be printed out and mailed to USCIS.

The applicant must read every question on the N-400 with an understanding of its legal context and must answer truthfully. Each supporting document and attachment for explanatory information is then gathered and labeled with name, alien registration number, and "N-400." The applicant's signature on the N-400 must be dated within 30 days of the mailed postmark. The contents include the total application fee by check or money order, made out to "USCIS". The memo on the check or money order should read "N-400." Fee waivers are available for applicants under limited conditions, though there is no USCIS fee-waiver form. Applicants often seek help from a charitable legal immigration service provider when applying for a waiver.

The applicant makes a photocopy of the application forms and attachments for his or her personal records. The photocopied N-400 should be studied, as the questions on the form will be asked in the interview. The photocopies can also prove useful if USCIS loses the application.

The application is mailed, preferably as certified mail, to the designated USCIS Service Center with jurisdiction over the state where the applicant lives. The four service centers and their corresponding states may be found on the USCIS website. A receipt is mailed to the applicant indicating a service center case number, which is useful for tracking the application's status in the USCIS process.

If an applicant moves after mailing the application, an Alien Change of Address Card (AR-11) must be filed. Applicants are advised to write a letter to the USCIS Immigration District Office responsible for conducting their naturalization interview to inform the office of the address change. In addition, applicants should call the USCIS National Customer Service Center at 1-800-375-5283 to provide the change of address. All three steps have proven necessary to prevent notices from being sent to the wrong address, and consequently, USCIS administratively closing the case when the applicant fails to appear for an appointment.

Step Four: Fingerprints and Biometric Information

After the N-400 application is received and accepted for processing, a Notice of Action (I-797C) is sent to the applicant, giving a date and time for fingerprints and biodata to be taken. (Applicants who are 74 years old or younger are required to provide USCIS with fingerprints and biodata. Applicants 75 and older are exempt.)

USCIS takes applicants' fingerprints, using ink or digital images, to determine any criminal history. USCIS sends fingerprints to the Federal Bureau of Investigation (FBI), where they are entered into a national database of every fingerprint taken by law enforcement agencies in the United States. All arrest records remain with the FBI even after a conviction is removed or expunged by the court. USCIS can deny an application on the basis of a criminal record barring naturalization. USCIS can also deny an applicant on the grounds that he or she lacks good moral character if the applicant fails to disclose a criminal record on the N-400 or in the interview, even if that record is not an automatic bar.

The USCIS uses two types of facilities for taking fingerprints—an Application Support Center (ASC), supervised by USCIS officers, and a Designated Law Enforcement Agency (DLEA), often a police station. The applicant is required to take the fingerprint notice, original green card (I-551), and another government-issued identification card to the ASC or DLEA in order to verify eligibility for the fingerprint appointment. Another government-issued photo identification card can be displayed if the green card is missing or pending replacement.

The applicant can request an alternate date and time for fingerprinting by filling in the reverse side of the fingerprint notice and mailing it back to the sending USCIS office. It is advisable to appear on the first date given to avoid delays. Failing to appear without notification may cause USCIS to administratively close the case. Applicants who are severely physically disabled and unable to appear can request an accommodation to have fingerprints taken at home.

The importance of applicants' understanding the consequence of arrests, citations, and criminal convictions cannot be overstated. This issue alone is reason for public education and legal assistance before filing. The consequence of filing if an applicant has a permanent bar can be removal from the country. If the applicant has a conditional bar and files, the application may be denied, the filing fee lost, and much time wasted before reestablishing eligibility.

Step Five: Interview and Test

Every naturalization applicant is required to have a face-to-face interview with a USCIS officer to determine eligibility. The interview includes reaffirming answers on the N-400 application and passing a test on English, U.S. history, and civics, unless the applicant is exempt from the English requirements.

USCIS sends the applicant a Notice of Naturalization Interview (N-450A) with date, time, and location. The notice includes a list of required documents to enter the federal building and proceed through the interview. A second notice will not be sent if the first appointment is missed. An applicant must write the USCIS Immigration District Office in charge to schedule an alternate interview date. Again, informing USCIS of a change of address with the Alien Change of Address Card (AR-11), 1-800 number, and letter to the district office is essential to avoid the case being administratively closed.

At the interview, the officer in charge greets the applicant and escorts him or her to the interview room. Unbeknownst to most applicants, the point of greeting is when officers often begin to informally test English comprehension and verbal skills. The interview begins with the applicant raising his or her right hand and swearing to tell the truth. The officer examines the applicant's green card to determine identity and residency eligibility and follows with questions from the N-400 application. Each question on the N-400 corresponds to specific statutes in the Immigration and Nationality Act. Applicants are required to affirm the truth of each response and offer written documentation in support of eligibility if any doubt arises. The interview is also the point at which an applicant can ask USCIS to correct the spelling of a name or change a name.

Next, the officer assesses the applicant's English comprehension and speaking. To formally test English literacy, applicants may be asked to read aloud parts of the N-400 application, civics questions, or several simple sentences randomly selected from a standard list used by that particular USCIS district office. To test writing, applicants may be asked to write two simple sentences from a standard list. Misspellings or grammatical and punctuation mistakes are not to be a cause for failing if a "reasonable person" can understand the sentence.

To test knowledge of U.S. history and civics, applicants are given ten questions on material taken from the USCIS list of 96 history and civics questions or federal textbooks on citizenship—*United States History, 1600–1987* (M-289), *U.S. Government Structure* (M-291), *Citizenship Education and Naturalization Information* (M-287), and *A Reference Manual for Citizenship* (M-286). Applicants must answer six of the ten questions correctly to pass the test.

At the interview's conclusion, the officer provides the applicant with a Naturalization Interview Results Notice (N-652), informing whether the application is granted, continued, or denied. Current naturalization approvals range between 70 and 80 percent. No statistics are currently available that explain why 20 to 30 percent are denied.

Approval may come at the end of the interview or in a notice in the mail shortly thereafter. Some district offices have the authority to conduct naturalization oath ceremonies and issue the Certificate of Naturalization on the same day as the interview. If not scheduled the same day, a notice is sent by mail informing the applicant when the oath ceremony will take place.

Continuation decisions occur for two reasons. First, if additional documentation is needed, form N-14 is given, explaining what information or documents must be provided. Second, if the applicant fails the English, history, or civics tests, a second, and final, opportunity to take the failed portion of the test is scheduled. Interviews are usually scheduled between 60 to 90 days after the first appointment.

Denials occur when the applicant fails to meet one of the many statutory requirements. USCIS provides the applicant with a letter explaining the cause of the denial. The applicant has 30 days from receipt of the denial letter to file an appeal with USCIS using form N-336. If USCIS denies the appeal, the applicant can file for a new review of the application in a U.S. district court.

Step Six: Oath Ceremony and Certificate

An applicant is required to take the oath of allegiance. The oath can be given in one of two formats—in a federal district court naturalization oath ceremony or in a USCIS administrative oath ceremony.

Federal district courts have jurisdictional authority to grant citizenship in a court ceremony or defer the authority to USCIS to conduct an administrative ceremony. USCIS sends a Notice of Naturalization Oath Ceremony (N-445) informing the applicant when and where to appear.

On the day of the courtroom ceremony, USCIS reviews applicant answers to questions on the reverse of the N-445 reaffirming his or her eligibility based on events occurring since the interview. Before the ceremony begins, the applicant surrenders the Permanent Resident Card.

The formal ceremony begins with the bailiff calling all persons in the room to rise. The judge welcomes the applicants and guests. USCIS assures the judge that every applicant is eligible for citizenship. The judge gives a speech highlighting the importance of the occasion. Then applicants stand, raise their right hand, and recite the oath of allegiance. A Certificate of Naturalization is given at the conclusion. After the ceremony, a community-based organization often holds a reception.

A USCIS administrative oath ceremony follows a similar format but without the impressiveness of a federal courtroom setting, the judge's oversight, and the presence of community members as honored guests. USCIS district offices attempt to make the administrative ceremony a dignified and celebratory experience. In place of a judge, a USCIS district director or designee reviews and affirms the applicants' eligibility and presides over the oath of allegiance and granting of the Certificate of Naturalization.

In either setting, the naturalization oath ceremony is an important moment in an immigrant's life. As citizenship is exercised over a lifetime, it takes on significant meaning and brings great benefits to individuals, families, communities, and the nation.