



U.S. Department of Justice
Immigration and Naturalization Service

425 I Street NW
Washington, DC 20536

Nov 15, 1999

MEMORANDUM FOR REGIONAL DIRECTORS
DISTRICT DIRECTORS
OFFICERS-IN-CHARGE
SERVICE CENTER DIRECTORS

FROM: William R. Yates /s/
Deputy Executive Associate Commissioner
Office of Field Operations
Immigration Services Division

SUBJECT: Fingerprint Waiver Policy for Naturalization Applicants who are Unable to be Fingerprinted

Public Law 105-119 requires that the Immigration and Naturalization Service (INS) receive confirmation from the Federal Bureau of Investigation (FBI) that a full criminal background check has been completed before adjudicating a naturalization application. At this time, the FBI makes this type of confirmation only in response to queries made by submitting fingerprints. However, there is a small number of applicants for naturalization who have disabilities that render them unable to be fingerprinted or provide legible fingerprints.

The Rehabilitation Act requires in certain instances that all federal agencies make reasonable accommodations for people with disabilities. Therefore, this memorandum establishes a fingerprinting waiver for certain naturalization applicants with disabilities who are unable to provide fingerprints or are unable to provide legible fingerprints. This memorandum also provides guidance on the procedures for waiving the fingerprinting requirement and alternative procedures for determining whether the applicant meets the good moral character eligibility requirement. These procedures are effective for naturalization applicants scheduled for fingerprinting on and after the date of this memorandum.

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Waiver Eligibility

A small number of applicants, for various reasons, are unable to provide fingerprints or unable to provide legible fingerprints. These reasons may include, but are not limited to, birth defects, physical deformities, or skin conditions.

Only an INS officer responsible for overseeing applicant fingerprinting is authorized to waive the fingerprinting requirement. An INS officer may grant a waiver only after he or she:

1. Has personally seen the applicant;
2. Has attempted to fingerprint the applicant **or** has observed a fingerprint technician employed by INS attempt to fingerprint the applicant; and
3. Determines that the applicant cannot be fingerprinted at all **or** cannot provide a single legible fingerprint.

A fingerprinting waiver may never be granted simply because an individual has fewer than 10 fingers. The FBI can produce a criminal background record for an individual who provides fewer than 10 fingerprints. A waiver may only be granted when an INS officer determines that an applicant can provide **no fingerprints. The waiver must not be granted solely because it appears that the prints will be unclassifiable.** In addition, a fingerprinting waiver may never be granted if the reason an individual cannot provide fingerprints or cannot provide legible fingerprints is due to a temporary condition. The decision of the INS officer not to grant a fingerprinting waiver is final and may not be appealed.

Waiver Procedure

Only an INS Application Support Center (ASC) manager, an INS officer supervising a mobile fingerprinting route or an INS officer acting in the capacity of an ASC manager may grant a fingerprinting waiver. Therefore, all individuals, including individuals who believe they qualify for a fingerprinting waiver, must still be scheduled for and appear for fingerprinting at an INS-designated location.

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If an ASC manager or other authorized INS officer grants a fingerprinting waiver, he or she must:

1. Note on the applicant's fingerprint notice that a fingerprinting waiver is granted;
2. On the fingerprint notice sign his or her name and the date the waiver is granted;
3. Describe on the fingerprint notice the condition that prevents fingerprinting the applicant;
4. Give the applicant a copy of the annotated fingerprint notice and a notice to bring local police clearances to his or her naturalization examination (copy of Police Clearance Notice attached); and
5. Forward the annotated fingerprint notice and a copy of the Police Clearance Notice to the service center.

When a service center receives a waiver-annotated fingerprint notice and Police Clearance notice, the notices must be retained with the corresponding naturalization application. The service center, or the local office if the file was shipped before the completion of normal procedures pursuant to Policy Memo # 53, must circle "Waived" in the Remarks section of the FD-258 Control Number line of the N-650A and annotate "Policy Memo #60" in the Remarks. After the service center, or local office, has completed all file transfer procedures and other Naturalization Quality Procedures (NQP) requirements for the application, the CLAIMS 4.0 fingerprint hold may be overridden to allow the applicant to be scheduled for a naturalization examination.

If a naturalization applicant is scheduled for fingerprinting at a designated law enforcement agency (DLEA), and the DLEA believes the applicant cannot be fingerprinted, the DLEA must refer the applicant to an INS fingerprinting location to complete the procedure described in this section.

Procedure at time of Naturalization Examination

A naturalization applicant who is granted a fingerprinting waiver must bring local police clearances to his or her naturalization examination. The local police clearances must be retained with the naturalization application. In addition to the local police clearance, the INS officer conducting the naturalization examination must execute the sworn statement found in attachment # 7 to the NQP4 memorandum.

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If you have any questions about this memorandum, please contact Richard Sheridan, Office of Field Operations, Immigration Services Division at (202) 616-0583.
