



AMERICAN
IMMIGRATION
LAWYERS
ASSOCIATION

June 14, 2023

Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Policy and Strategy
Regulatory Coordination Division
5900 Capital Gateway Dr.
Camp Springs, MD 20588-0009

Attn: Samantha L. Deshommes,
Chief, Regulatory Coordination Division

Submitted via www.regulations.gov
DHS Docket No. USCIS-2008-0025

Re: OMB Control Number: 1615-0052
Revision of a Currently Approved Collection: Form N-400, Application for
Naturalization

Dear Ms. Deshommes:

The American Immigration Lawyers Association (AILA) respectfully submits the following comments in response to the above-referenced 60-day notice and request for comments on proposed revisions to Form N-400, Application for Naturalization, and its accompanying instructions, published in the Federal Register on April 20, 2023.¹

Established in 1946, AILA is a voluntary bar association of more than 16,000 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. We appreciate the opportunity to comment on the proposed revisions to Form N-400 and its instructions and believe that our members' collective expertise and experience makes us particularly well-qualified to offer views that will benefit the public and the government.

¹ 88 FR 24438 (April 20, 2023).

General Comments

Initially, we wish to commend USCIS for its effort to streamline and simplify Form N-400, a recommendation that AILA has consistently made to reduce confusion and mistakes. Reducing the form's number of pages from 20 to 14 and adding significant background and explanatory information into the form's instructions will facilitate the preparation and filing of naturalization applications in furtherance of the [President's goal](#) of eliminating barriers and otherwise improving the existing naturalization process. We also appreciate the consistent reference to the instructions throughout which will be particularly helpful for *pro se* applicants. Nevertheless, we believe there is still much that USCIS can accomplish to make the naturalization process even more user friendly. Specifically, we believe Form N-400 would benefit by further reducing the number and nature of questions so that the form includes only those that are necessary to meet the statutory requirements. For example, at **Part 8, Information About Your Children**, there are multiple questions about the applicant's children. There is no statutory requirement linking naturalization with an applicant's children, where they live, whether they are alive or deceased and the relationship (biological, step, or adopted child) and it is unclear why this information is required on a naturalization application for all applicants.

Specific Comments

We enclose the following specific comments on Form N-400 and its accompanying instructions:

1. **myUSCIS Copydeck: Interactive Forms, Page #2. File a Form N-400 [Drop Down Menu](#)**: AILA appreciates and understands that it is USCIS' goal is to make the immigration process more transparent for applicants. We are uncertain, however, that adding only general eligibility requirements at the beginning of the myUSCIS version of Form N-400 will create transparency for the applicant and believe, rather, that it will create confusion and potentially deter eligible applicants from filing. For example, the general eligibility requirements listed under the N-400 form description describe the most common pathway to citizenship for those individuals who meet the lawful permanent residence and continuous residence requirements for 5 years. Unfortunately, the listed general requirements do not address the special circumstances of the three-year pathway for spouses of U.S. citizens or VAWA applicants and may lead to confusion for applicants, even though they are addressed in the eligibility tool and explained in the instructions. Given the nuances of immigration law and requirements, listing only general eligibility requirements in writing when downloading the application, particularly for those who do not follow this general pathway, will likely create confusion, and may lead to those individuals not filing the applications because they do not meet these general requirements, which we realize is not USCIS's intent.

As the general requirements are also listed in the instructions, which also includes the special circumstances, we suggest referring to the instructions in the header for the general requirements at the time of downloading the form or leaving the current header intact.

2. **Part 1.** AILA greatly appreciates that USCIS has further delineated, and thus clarified, the various bases under which an applicant may qualify for naturalization. While the instructions had referred to these categories, we believe this is a much cleaner and clearer approach.
3. **Part 2, Question 3 and accompanying instructions.** AILA also appreciates that this part draws clearer attention to the effect of requesting a name change during the naturalization process, as many applicants do not realize that a name change will require a judicial ceremony and may delay the application significantly. We also appreciate that USCIS has more directly flagged the issue of citizenship by derivation directly on the form.
 - a. **Question 12a, b and c.** In connection with the overarching goal of shortening the form, we are uncertain why the questions related to the issuance of a social security number have been added to the form as it would seem that, other than an anomalously small percentage of applicants, anyone who is applying for naturalization, as opposed to deriving citizenship, would have typically obtained an SSN years earlier. In addition, AILA questions whether it is reasonable for USCIS to timely and adequately make these requests and changes with the Social Security Administration given the significant and enduring backlog with respect to reporting updates and changes to the SAVE database. As we believe these questions unnecessarily add length to the form while only providing limited intrinsic value, we recommend that USCIS delete the questions relating to the assignment of a social security number and merely request that the applicant confirm whether they request issuance of a replacement social security card with updated information on their immigration status.
4. **Part 5.** We note that there are no instructions providing guidance on completion of Part 5 other than the information included directly on the form. We recommend that USCIS provide a brief explanation in its instructions confirming the scope of the term “foreign government employment” newly added to the list of occupations that require listing of all employment experience. While it is more reasonable to understand the request for information with respect to all police, military or intelligence service, asking applicants to list all foreign government employment experience without qualification is likely to elicit an excessive amount of information that is irrelevant to eligibility for naturalization. Without any guidance, the question as proposed will require applicants to provide information relating not only to federal employment but also local or provincial

employment in all capacities and at any age. For example, the question will now require listing of temporary or part time employment, including Summer or college internships and jobs in maintenance, clerical or teaching roles, in which the employer is a foreign government entity. In addition to our reservations about the scope of this additional requirement, there is the related concern that an inadvertent failure to list short term foreign government employment from decades ago could delay or negatively impact processing of the naturalization application. Accordingly, we recommend that USCIS provide guidance that clarifies and narrows the scope of the term foreign government employment to require listing employment information related specifically to a ground of ineligibility.

5. **Part 6.** The changes to this section are beneficial. *Pro se* applicants and even some attorneys and accredited representatives do not fully comprehend the difference between, and significance of, the physical presence and continuous residence requirements and this part of the form effectively focuses attention on the issue.
6. **Part 7.** We commend the additional information at Questions 3 and 7 as it rephrases prior language and incorporates materials previously found in the instructions so that it more effectively clarifies the parameters of these questions.
7. **Part 8.** Please see our earlier general comment questioning the relevance of **Part 8, Information About Your Children**. If this section is retained, we believe the explanatory information (“Valid Options”) is helpful as there has historically been confusion about the universe of “children” that fall within this question.
8. **Part 9.** While we appreciate the clarification of what is meant by the term “EVER” at the introduction to Part 9, as well as the additional detail provided in the Selective Service series of questions, we have concerns about the scope of several of the questions in Part 9. In a likely attempt to generate more clarity by breaking a number of questions into sub-parts, USCIS has inadvertently created ambiguity and structured some questions in a manner where a “Yes” answer under current law would not constitute disqualifying conduct or lead to the discovery of disqualifying conduct.
 - a. **Question 5b and c.** It is entirely unclear what is meant by “World Communism.” The term does not – to our knowledge – have a specific legal meaning and appears to refer to a general philosophy or ideology. We believe a better way to ask the question is to simply revert to the prior form’s question inasmuch as communist party membership is what is potentially disqualifying, not belief in an ideology, which is protected behavior under the U.S. Constitution. Further, Question 5c potentially catches within its ambit anyone who legitimately teaches these concepts

as part of a history or political science curriculum – again, doing so in and of itself is not disqualifying, particularly when linked to the legally non-specific concept of “World Communism.” This proposed version of the question has the potential to confuse, scare and intimidate applicants, which we do not believe to be USCIS’s goal with this revision.

- b. **Question 14 and 15b.** AILA believes that in both sections, the question asking whether an applicant has ever been notified that they were being investigated is outside the scope of the potentially disqualifying conduct addressed in the question at large. Absent a “yes” answer to any of the remaining sub-parts of this question, answering this question in the affirmative will not lead to an inquiry that would otherwise disclose disqualifying conduct.
- c. **Question 30.b and c.** AILA questions the validity and redundancy of a renunciation of a title or order of nobility on the N-400 form as the individual has already noted that they are willing to give up their title or order of nobility at a naturalization ceremony. For example, the three questions (30.a, b and c) could be shortened and simplified as follows:
 - “If you currently have a hereditary title or an order of nobility in any foreign country, are you willing to give up the inherited titles or orders of nobility at your naturalization ceremony? (Y/N)”

Conclusion

We urge USCIS to continue to review the content and clarity of its forms to reduce their size and scope and we support efforts by USCIS to redesign and re-engineer important forms like Form N-400 in order to make the information collection document shorter, simpler and easier for applicants to understand. We believe the proposed changes to Form N-400 by USCIS, along with our recommendations contained herein, will facilitate a more fair and efficient naturalization process.

We appreciate the opportunity to comment on the proposed revisions to Form N-400 and look forward to a continuing dialogue with USCIS on this important matter.

Sincerely,

THE AMERICAN IMMIGRATION LAWYERS ASSOCIATION