



VIA E-MAIL:

February 15, 2013

USCISFRComment@uscis.dhs.gov;
DHS, USCIS,
Office of Policy and Strategy
Chief, Regulatory Coordination Division,
20 Massachusetts Avenue, NW
Washington, DC 20529-2140

RE: Comments on Proposed Revision of Form N-400, Application for Naturalization

Dear Sir or Madam:

On behalf of the Hebrew Immigrant Aid Society (“HIAS”), the international migration arm of the American Jewish community for over 130 years, I write to comment on the proposed revision to Form N-400, published in the *Federal Register* at Volume 77, Number 245 on December 20, 2012.

Throughout our history, HIAS has assisted over 4.5 million refugees and vulnerable migrants by providing overseas assistance, resettlement in communities nationwide, and citizenship and other integration-related services. HIAS has represented many applicants for naturalization and our staff has much expertise in connection with this form. As the recipient of two USCIS national citizenship and integration national capacity building grants, HIAS has extensive experience in teaching and mentoring affiliated agencies serving as sub-grantees of the program. HIAS respectfully submits the following comments in response to the proposed revisions to the Instructions for Application for Naturalization (hereinafter, “Instructions”) and to the Application for Naturalization (hereinafter, “Application”).

While some of the proposed revisions improve the layout and formatting of the Application, our concern is that the proposed Application is **eleven pages longer** than the current and previous versions. **Many of the proposed revisions delve into information which has already been addressed and resolved in adjustment of status proceedings**, such as participation in persecutory or terrorist activities. **Other proposed revisions seek information that is unnecessary, irrelevant and potentially intimidating**, such as the immigration status and alien numbers of the applicant’s parents and the social security numbers of his/her children. **The net effect is that the proposed Application is unwieldy, overly complex and likely to discourage applicants who are eminently qualified for citizenship.**

Through these comments, we urge revisions that would clarify eligibility requirements and explain complex terminology, while maintaining the proposed formatting improvements and eliminating the collection of extraneous data.

SUMMARY OF PROPOSED CHANGES

I. We propose the following changes to the Instructions including, but not limited to, the following:

- Specification that *each* eligible applicant in a family unit must file a *separate* Application;
- Substantive instructions corresponding to each part of the Application;
- Cross-referencing between the Instructions and the Application, including page numbers;
- Mention of past military service as possible qualification for naturalization;
- Clarification regarding required length of lawful permanent residence, residence in the applicable jurisdiction, physical presence and continuous residence;
- Complete statement of each requirement for eligibility for the N-648 waiver;
- Clarification of questions regarding name, mailing address and time spent outside of the U.S.;
- Definitions of technical terms.

II. We propose the following changes to the Application including, but not limited to, the following:

- A reminder to the applicant to read the Instructions *before* completing the Application;
- The instruction that *each* eligible applicant in a family unit must file a *separate* Form N-400;
- Cross-referencing between the page number of the Instructions and the corresponding parts of the Application;
- Improved formatting to enable an applicant to accurately and completely indicate each part of his/her name and his/her spouse's name (Part 2);
- Complete listing of each eligibility requirement for a N-648 waiver (Part 2);
- Electronic continuation pages for data concerning residence (Part 4); employment and school attendance (Part 7); marital history (Part 9); and children (Part 10);
- Elimination of collection of information about the applicant's parents (Part 5);
- Improved collection of data concerning physical characteristics (Part 6);
- Limiting the collection of data regarding trips abroad to the past five years, allowing the applicant to approximate lengths of trips for which s/he does not have documentation (Part 8);
- Elimination of unnecessary and reiterative questions regarding possible involvement in persecution or terrorism (Part 11);
- Simplification of sentence structure and definition of the terminology used in Part 11, including but not limited to the following:
 - "title of nobility" (Question #4) (p. 13);
 - "confined to a mental institution" (Question #5) (p. 13);
 - "nonresident" (Question #7B-8) (p. 13);
 - "affiliation" (Question #9) (p. 13);
 - "indirectly" (Questions #10-11) (p. 13);

- “habitual drunkard” (Question #29A) (p. 16);
- “bear arms” (Question #49) (p. 17).
- Reference to the options of Waiver and Modification of the Citizenship Oath (Part 11; Questions #46-51);

I. INSTRUCTIONS

A. IT SHOULD BE MADE CLEAR THAT EACH ELIGIBLE APPLICANT IN A FAMILY UNIT SHOULD FILE HIS/HER OWN APPLICATION.

Under the heading, “**General Eligibility Requirements**,” (p. 1), it should be indicated that each eligible applicant must file his/her *own* Application. Confusion might otherwise arise due to the references to and collection of information pertaining to family members in Parts 5, 9 & 10.

B. DESCRIBE THE REQUISITE ELGIBILITY TIME FRAMES REGARDING LENGTH OF LAWFUL PERMANENT RESIDENCE, RESIDENCE IN THE APPLICABLE JURISDICTION, PHYSICAL PRESENCE AND CONTINUOUS PRESENCE.

Under the heading “**General Eligibility Requirements**,” (p. 1), items #2-5, which set forth the time frames, in which an applicant can apply for naturalization, should be rephrased as follows:

2. You have been a lawful permanent resident for five years or three years as a lawful permanent resident married to a U.S. Citizen.
3. You may apply for naturalization up to 3 months before you have fulfilled the required time period of having had lawful permanent residence for either five or three years.
4. You have demonstrated physical presence within the United States for the required period of time.
5. You have demonstrated continuous residence for the required period of time.

C. INSTRUCTIONS FOR APPLICANTS APPLYING BASED UPON QUALIFYING MILITARY SERVICE.

Under the heading, “**Members of the U.S. Armed Forces**,” there should also be information for individuals applying for naturalization based upon military service in the *past*.

D. CLARIFICATION SHOULD BE PROVIDED REGARDING THE TERM, “MIDDLE NAME” IN PART 2.

Clarification should be provided of the term, “Middle Name,” in Part 2 of the

Application, i.e. whether or not an applicant should consider a patronymic or a derivative of a family name or maiden name to be his/her middle name or part of his/her middle name.¹ Clarification needs to be provided whether or not such derivatives of family names and maiden names should be considered middle names.

E. CLARIFICATION SHOULD BE PROVIDED FOR PART 4 AS TO HOW TO INDICATE HOME ADDRESS.

In Question #1, the instruction should be revised simply to state “do not provide a P.O. Box in this space.”

It should be made clear in Question #2 that the term “care of” or the abbreviation “c/o” refers to a situation in which the applicant receives his/her mail at an address in which his/her name is not identified on the mail receptacle, mail delivery room or other area in which the mail is delivered at the said address.

F. CLARIFICATION SHOULD BE PROVIDED FOR PART 8 AS TO THE TERM “TIME OUTSIDE THE UNITED STATES.”

It should be specified that trips abroad do not include trips to *territories* of the United States. For clarification, a list of the territories of the United States should be provided.

G. TECHNICAL TERMS USED IN THE APPLICATION, PARTICULARLY, PART 11 (“ADDITIONAL INFORMATION”), SHOULD BE DEFINED.

Technical terms used in the Application should be defined in the Instructions. Many of the technical terms used in the Application, especially in Part 11 (“**Additional Information**”) are obscure. *See, e.g.*, the use of the terms “alternative sentencing or a rehabilitative program,” and then “diversion, deferred prosecution, withheld adjudication, deferred adjudication” in Part 11, Question 25 (p. 15). *See also* “to gain entry or admission” in Question #31 (p. 16). These are highly technical terms which a lay person, especially one for whom English is not his/her native language, will not automatically understand. The Instructions would be more useful if it included definitions and examples of such terms.

In particular, definitions should be provided for the following terminology in Part 11:

- “title of nobility” (Question #4) (p. 13);
- “confined to a mental institution” (Question #5) (p. 13)
- “nonresident” (Question #7B-8) (p. 13);
- “indirectly” (Questions #10-11) (p. 13);

¹ For instance, a Russian applicant’s full name would be his given name, followed by his patronymic, followed by his last name (*e.g.*, Ivan Ivanovich Ivanov). The complete name of an applicant of Arabic descent would be his given name, followed by his father’s name and grandfather’s name, followed by his last name (*e.g.*, Saleh bin Tariq bin Khalid Al-Fulan). The complete name of some married female applicants of Spanish descent would be her given name, followed by her maiden name, followed by “De” and her husband’s last name (*e.g.*, Leocadia Blanco Álvarez de Pérez).

- “habitual drunkard” (Question #29A) (p. 16);
- “bear arms” (Question #49) (p. 17).

II. APPLICATION

A. **THERE SHOULD BE LANGUAGE AT THE TOP OF THE FIRST PAGE DIRECTING APPLICANTS TO READ THE “INSTRUCTIONS FOR APPLICATION FOR NATURALIZATION” BEFORE COMPLETING THE APPLICATION.**

There should be a summary at the top of the Application which reads as follows:

“Please review the Instructions for Application for Naturalization carefully before filling out this Application. Each eligible applicant in a family must file a separate Application. Print your answers clearly or type your answers using CAPITAL letters. Failure to print clearly may delay your application. Use blue or black ink.”

B. **EACH SECTION OF THE APPLICATION SHOULD CROSS-REFERENCE THE CORRESPONDING SECTIONS AND PAGE NUMBERS OF THE INSTRUCTIONS.**

As the Instructions are lengthy, we propose that each part of the Application include a cross-reference to the relevant section and page number of the Instructions. For instance, the section entitled, “**Part 2. Information About You (*Person applying for naturalization*)**” should cross-reference the corresponding sections of the Instructions, *i.e.*, p. 4-5.

C. **PART 2, “INFORMATION ABOUT YOU” (P. 2)**

We recommend that more space should be provided for the applicant’s middle name in Questions #1-3 (p. 1) to accommodate all cultural name traditions. As indicated *supra*, (LD), clarification needs to be provided in the Instructions as to whether or not such derivatives of family names and maiden names should be considered middle names. If so, we propose that the grid space be entitled “Middle Name(s),” to allow for the situation in which an applicant’s full name includes two or more derivatives of family names.

Question #9 (Country of citizenship or nationality) (p. 2) should be divided into two boxes to allow for those situations in which an applicant’s citizenship and nationality are not the same, or for when an applicant is a dual citizen.

We applaud that this section (Questions #10-12) (p. 2) now references the waiver of the English language requirement based on age and length of permanent residency (“50/20” and “55/15” rules); “special consideration” for applicants who are 65 years or older and have been lawful permanent residents for at least 20 years; and the N-648 waiver. However, there should be a complete statement of the requirements for the N-648 waiver, *i.e.*, Question #11 (p. 2) should be rephrased as follows, “Do you have a physical or developmental disability or mental impairment which has lasted or is expected to last for 12 months or longer, and is not the result

of illegal drug use, that prevents you from demonstrating your knowledge and understanding of the English language and/or civics requirements for naturalization?”

D. PART 4, “INFORMATION ABOUT YOUR RESIDENCE” (P. 3)

There should be an electronically generated continuation page for the applicant to list his/her residences during the last five years.

E. PART 5, “INFORMATION ABOUT YOUR PARENTS” (P. 4-5)

The introduction in this part alluding to acquired and derived citizenship should be retained. The only question that should follow is “Are either of your parents U.S. citizens?” Questions #1-3 seek information that is extraneous and irrelevant.

F. PART 6, “INFORMATION FOR CRIMINAL RECORDS SEARCH” (P. 5)

In Question #3, “Race,” (p. 5) the applicant should be directed to check *all* of the racial categories that may apply to him/her so that applicants of mixed racial heritage may give a complete and accurate response and not feel excluded from the naturalization process. In addition, a line should be inserted after the box designated as “☐ Other” so that it appears as follows, “☐ Other_____” and can be filled in.

The category, “Hair color,” in Question #4 (p. 5) should be changed to “Hair color (Current)” to make it clear that the intent of the question is to capture the details of the applicant’s current appearance.

A line should be inserted in Question #5 (p. 5) after the box designated as “☐ Other” so that it appears as follows, “☐ Other_____” and can be filled in.

G. PART 7, “INFORMATION ABOUT YOUR EMPLOYMENT AND SCHOOLS YOU ATTENDED” (P. 6-7)

The parenthetical phrase, “please be sure to include multiple jobs which you held during the *same* time period” should be inserted so that the sentence on p. 6 reads, “Begin by providing information about your most recent or current employment and/or studies. Provide the locations and dates where you worked, were self-employed, were unemployed, or have studied for the last 5 years. (Please be sure to include multiple jobs which you held or multiple schools you attended during the *same* time period.)”

In addition, there should be an electronically generated continuation page. It is an economic reality that many people have to hold multiple jobs at the same time to make a living. Therefore, four grid spaces may not nearly be enough to capture all of the data.

H. PART 8, “TIME OUTSIDE THE UNITED STATES (INCLUDING TRIPS TO CANADA, MEXICO AND THE CARIBBEAN)” (P. 7)

The parenthetical legend “*Including Trips to Canada, Mexico and the Caribbean*” should

be changed to “*Including Trips to Canada, Mexico and the Caribbean, but Excluding Territories of the United States*.” A list of territories of the United States should be provided in the corresponding section of the Instructions.

In Questions #1-3 (p. 7), the applicant should only be required to list his/her trips outside of the United States for the past five years, not since becoming a permanent resident. It is unduly burdensome for an applicant to list every trip abroad, especially in cases where the applicant has been a lawful permanent resident for a very long period of time. Moreover, the applicant should be directed and allowed to estimate the amount of days for a given trip if s/he has no corresponding documentation or passport stamps.

I. PART 9, “INFORMATION ABOUT YOUR MARITAL HISTORY” (P. 8-10)

In Question #4 (p. 8), “Family name (*last name*)” should be entitled “Spouse’s Current Family Name (*Last Name*)” to avoid confusion among applicants whose spouses retain their maiden name. The term, “Middle names” should be used to allow for the situation in which an applicant’s full name includes two or more derivatives of family names.

In Question #9 (p. 10), the applicant should not be required to report his/her prior spouse’s date of birth. This was not previously required. The applicant may no longer be in contact with his/her prior spouse and therefore, may not have access to this information. The date of the marriage and the date the marriage ended suffice.

There should be an electronically generated continuation page to allow for the situation where the applicant has had more than one previous spouse.

J. PART 10, “INFORMATION ABOUT YOUR CHILDREN” (P. 10-11)

The term, “current stepchildren” should be defined.

It is unclear to why applicants should be required to include the social security numbers of their children. It is not currently required and is irrelevant to the application.

Question #7 (“What is your child’s relationship to you”) should be eliminated. As long as the applicant has included each of his/her children, it does not matter whether the children are biological, adopted or stepchildren.

Again, there should be an electronically generated continuation page to allow for the situation where the applicant has a large family.

K. PART 11, “ADDITIONAL INFORMATION”

Questions #13-20 (pp. 14-15) represent the largest proposed revision to the Application. These questions, in extensive detail, seek to discover whether or not the applicant may have been implicated in persecution or terrorism. This line of questions is not included in the current version of the Application and is not necessary because these issues would have been addressed

by USCIS at or before the time when the applicant sought adjustment of status. The sheer volume and interrogatory style of these questions will only serve to daunt many worthy applicants who were never involved in any such activities. This portion of the application adds one and a half pages to the additional eleven pages in the proposed Application. The aggressive nature of the questions will likely make many applicants feel as though rather than being welcomed as prospective citizens, that the United States government has a vast distrust of immigrants, is using the Application as potential basis for removal proceedings, and only grudgingly will allow them to become citizens. If USCIS believes that an individual has committed persecutory or terrorist activities, it has the burden to commence or re-open removal proceedings. Moreover, USCIS always has the right to denaturalize citizens who are discovered to have committed such acts. The integrity of the naturalization process should be preserved and remain a simple, affordable and welcoming process.

The language of many of the remaining questions needs to be simplified. Many of the questions include terms which are obsolete, ambiguous or subject to different interpretations under Federal and State laws. Other questions are written in compound form and hence cannot necessarily be answered simply in the affirmative or negative.

Question #4 (p.13): The term “title of nobility” needs to be defined or changed. Moreover, the question as to whether or not the applicant agrees to renounce such a title needs to be included, which currently appears as Question #52, and should be moved to immediately follow Question #4A or #5.

Question #5 (p. 13): This question is compound in form. It should be divided into two separate questions, the first inquiring about a legal declaration of incompetence, and the second inquiring as to confinement to a mental institution.

Question #7A (p. 13): This question should be rephrased as follows, “Since becoming a lawful permanent resident, have you **ever** failed to file a required Federal, State or local tax return **when you were required by law to do so**?”

Question #7B-8 (p. 13): The term “nonresident” is ambiguous because it has different meanings under Federal and State laws, as well as under the Internal Revenue Service Code and the Immigration and Nationality Act. Therefore, it needs to be further defined for the purposes of this form in the Instructions.

Questions #10-11 (p. 13): The term “indirectly” is ambiguous, overly broad, and potentially disqualifies applicants who merely lived in a country governed by a Communist or totalitarian regime, even if they were not active participants in such governments.

Questions #22-24 (p. 15): It is not clear whether or not an applicant needs to answer in the affirmative if his/her record only includes traffic offenses that did not involve an arrest, were not alcohol/drug related, and for which the fine was less than \$500. Applicants who have a record of such traffic violations are directed not to submit documentation for these traffic incidents and fines on page 9 of the Instructions.

Question #28 (p. 16): The grid refers to Questions #21-27, but is not relevant to Question #21, since Question #21 asks about crimes or offenses for which the applicant had **not** been arrested. Therefore, the first sentence preceding the grid should read, “If you answered “Yes” to any of Questions 22-27.” In addition,

Questions #46-52: Information regarding the options of modification or waiver of the oath should be included in the introduction following the instruction, “Answer **Item Numbers 46.-52.**”

CONCLUSION

Thank you for your consideration of our comments. The history of collaboration between USCIS and Community Based Organizations (CBOs) has been invaluable given the unique perspective which CBOs bring through their close work with immigrant communities. We believe that the continuation of this relationship will result in a better Form N-400 and hence be mutually beneficial to USCIS, CBOs and the communities served by both.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Mark Hetfield', is positioned above the printed name and title.

Mark Hetfield
President & CEO