

August 23, 2023

Eva Millona, Chief, USCIS Office of Citizenship, Partnership & Engagement
U.S. Citizenship and Immigration Services
5900 Capital Gateway Drive
Camp Springs, MD 20746

Dear Ms. Millona:

We, the undersigned 95 organizations, naturalization assistance providers, education experts, and other individuals, write to reiterate and emphasize our continued concern with the ongoing U.S. citizenship test redesign pilot. We note, with gratitude, your continued engagement on this topic. However, we wish to provide further clarification and reasoning for our concerns with the pilot as we believe any implementation of the proposed approaches will result in a lower pass rate for naturalization applicants.¹ Further, we wish to respond to the statements shared with stakeholders during various meetings and engagements.

Many of us are participants in the Naturalization Working Group (NWG). The NWG is coordinated by the NALEO Educational Fund and is made up of national, state, and local organizations and individuals committed to helping lawful permanent residents (LPRs) become U.S. citizens. The NWG strives to improve federal policies and practices related to naturalization and to educate legislators and other policymakers about the need to eliminate barriers to naturalization. Our coalition's expertise derives from its multiple member organizations that have significant experience in promoting naturalization and in assisting newcomers with the U.S. citizenship process, including immigrants who are serving in our military. The NWG is the policy complement to the New Americans Campaign (NAC), a diverse nonpartisan national network of immigrant-serving organizations, legal services providers, faith-based organizations, immigrant rights groups, foundations, and community leaders. The Campaign transforms the way aspiring citizens navigate the path to becoming new Americans. Through our extensive networks with service providers, immigration practitioners, and naturalization applicants, we have developed a profound understanding of the barriers faced by individuals seeking to obtain naturalization.

I. The Multiple-Choice Civics Test Cannot Be Implemented As Described

We want to underscore our strong opposition to piloting and usage of a written multiple-choice civics test in place of the current oral exam. We are very concerned that United States Citizenship and Immigration Service (USCIS) will not accommodate low-literacy populations,

¹ The authors have written to and met with senior USCIS leadership about U.S. citizenship test revisions on several occasions both before and since the present test review process began, including in group letters dated March 1, 2023 and April 14, 2023. We have described our serious concerns with test design and procedures around piloting revised tests, and have asked for more disclosures, and the opportunity to share feedback and receive responses to it publicly. We are sending the present letter to elaborate on our apprehension regarding the ongoing pilot test and operational plans USCIS has previewed, in light of the information presented in the Ombudsman's Office's recent stakeholder webinar and other public engagements.

including people with lower digital literacy, taking the proposed civics test. Many people who will struggle with a written test would pass it were it to be delivered orally. Members of these negatively affected groups are disproportionately likely, as compared to all immigrants, to be less than fluent in English²; to be Black, Indigenous, or people of color³, to be living with a disability⁴, and to be long-term U.S. residents⁵. They have been underrepresented in the past among naturalized citizens, and integrating them fully into their communities and our nation should therefore be a top priority for this Administration.

USCIS's assertion that it will not test applicants' reading skills during its pilot, including the skills of people with lower literacy, seems inaccurate to us. The written civics test that has been described to us requires applicants to be ready and able to read at least eight times as many words and phrases as are on the current reading test study list and USCIS has not provided information on when or how applicants will qualify for an exemption.⁶ Successful test-takers also will need to comprehend more challenging civics-related vocabulary and more complex phrases than those in use in the present reading test. We estimate the pilot written civics test would require Department of Education National Reporting System (NRS) Level 4 ESL proficiency, two levels more advanced than the current reading test.⁷ A test like this is a new, heightened literacy requirement for citizenship, and will be disproportionately challenging for people whose native languages are not based on the Roman alphabet. We are disappointed that USCIS would field-test an exam that follows in the footsteps of models like New York's English literacy test for Spanish-speaking intending voters of Puerto Rican origin⁸, southern states' Reconstruction-era

² The Census Bureau's American Community Survey 2021 1-year data shows that 81.5% of adult noncitizens with low literacy, compared to 57.8% of all adult noncitizens, speak English less than "very well". Custom data table created with U.S. Census Bureau's MDAT tool at <https://data.census.gov/mdat/#/>.

³ *Id.* (11.9% of all adult noncitizens are non-Hispanic white, while just 3.5% of adult noncitizens with low literacy are non-Hispanic white.)

⁴ *Id.* (16.4% of adult noncitizens with low literacy have a disability, compared to 8.0% of all adult noncitizens.)

⁵ *Id.* (76.1% of adult noncitizens with low literacy arrived in the U.S. more than 10 years ago, compared to just 61.1% of all adult noncitizens.)

⁶ It should also be noted that a test that requires more exemptions, as the proposed structure does, will undoubtedly lead to a heavier administrative burden on adjudicators who must incorporate another layer to the interview and testing process before they can make a decision. There is also the strong possibility that this structure will lead to more re-tests, prolonging the naturalization process for a percentage of applicants.

⁷ Bill Bliss, Medium, *Citizenship Test Revision Will Create New Barriers to Naturalization* (March 2, 2023), <https://bill-bliss.medium.com/citizenship-test-revision-will-create-new-barriers-to-naturalization-aab015cbf277>. We understand that USCIS estimates that the pilot test requires Level 3 proficiency, and note that even this represents an increase in difficulty that could disqualify many applicants.

⁸ *E.g.*, Library of Congress, *A Latinx Resource Guide: Civil Rights Cases and Events in the United States, 1966: Katzenbach v. Morgan* (July 27, 2023). <https://guides.loc.gov/latinx-civil-rights/katzenbach-v-morgan>.

literacy tests for Black citizens⁹, and the literacy tests adopted in the exclusionary 1917 Immigration Act¹⁰.

Our concerns are not mitigated by USCIS's rationale that countries such as the United Kingdom, Canada, Australia, Germany, and Norway use multiple-choice tests to assess civics proficiency. These nations make significant accommodations of the sort that USCIS has bypassed to combat the tendency of written multiple-choice tests to exclude older applicants, people with lower literacy, or people with disabilities. For example, each of the countries mentioned exempts all applicants who are above a given age or whose age prevents them from fulfilling civics testing requirements, regardless of length of residence.¹¹ But even if a multiple-choice U.S. civics test incorporated the kinds of protections that other nations use, we would oppose modeling our test after these less-successful systems. In Fiscal Year 2022, the pass rate of the U.S. citizenship test, including exemptions and re-tests, was almost 95%. The countries cited which administer written multiple-choice exams have lower pass rates than we do.¹² To model the U.S. test after countries whose systems are effectively more exclusionary makes it seem as if USCIS is intentionally contradicting its stated commitment to eliminating barriers to naturalization, and is altering the test to reduce the pass rate.

We are dismayed about the prospective negative effects of media and community conversations about the fact that USCIS is piloting a written civics test without accommodations. Even with

⁹ *E.g.*, Rebecca Onion, Slate, *Take the "Impossible" Literacy Test Louisiana Gave Black Voters in the 1960s* (June 28, 2013),

<https://slate.com/human-interest/2013/06/voting-rights-and-the-supreme-court-the-impossible-literacy-test-louisiana-used-to-give-black-voters.html>.

¹⁰ *E.g.*, The Gilder Lehrman Institute of American History, History Resources, *Literacy and the immigration of "undesireables," 1903* (July 27, 2023),

<https://www.gilderlehrman.org/history-resources/spotlight-primary-source/literacy-and-immigration-undesirables-1903>.

¹¹ Government of Canada Help Centre, *Who has to take the citizenship test?* (May 19, 2023),

<https://www.cic.gc.ca/english/helpcentre/answer.asp?qnum=374&top=5>; Anne Morris, *Life in the UK Test for ILR and British Citizenship*, DavidsonMorris (Sept. 1, 2018),

<https://www.davidsonmorris.com/life-in-the-uk/#:~:text=If%20you're%20applying%20for%20UK%20Indefinite%20Leave%20to%20Remain&text=A%20number%20of%20exemptions%20can,to%20attend%20language%20classes%3B%20or>; Australian Government, Dept. of Home Affairs, *Citizenship test and interview: Who doesn't sit the test* (Oct. 31, 2022),

<https://immi.homeaffairs.gov.au/citizenship/test-and-interview/learn-about-citizenship-interview-and-test#:~:text=at%20your%20interview.,Who%20doesn't%20sit%20the%20test,time%20you%20apply%20for%20citizenship>; German Federal Ministry of the Interior and Community, *Naturalization: Naturalization test (2023)*,

<https://www.bmi.bund.de/EN/topics/migration/naturalization/naturalization-node.html#:~:text=Persons%20under%20age%2016%20and,have%20to%20take%20the%20test.>; Norwegian Directorate of Immigration, *Citizenship test requirement for Norwegian citizenship* (July 27, 2023),

<https://www.udi.no/en/word-definitions/social-studies-test-citizenship-test-for-those-who-apply-for-norwegian-citizenship/>.

¹² In 2023, the United Kingdom Home Office reported a 90% pass rate for the U.K. citizenship test. United Kingdom Home Office, *Summary of Latest Statistics* (May 25, 2023),

<https://www.gov.uk/government/statistics/immigration-system-statistics-year-ending-march-2023/summary-of-latest-statistics#:~:text=There%20were%20181%2C480%20grants%20of,the%20year%20ending%20March%202022>.

assurance from the agency and community-based organizations that this test is only a trial version, naturalization applicants facing the greatest barriers to citizenship are likely to be intimidated and discouraged when they hear about its structure and format. Future prospective citizens would likely be deterred from applying for naturalization if they knew they would face a civics test like the pilot version. In addition, to our knowledge, the test and procedures USCIS is piloting could not be implemented without significant modifications to bring them into compliance with accessibility law¹³ and this Administration's commitments to encourage citizenship¹⁴ and further equity through policymaking¹⁵, among other controlling authorities. In light of these considerations, at the conclusion of the current pilot phase, USCIS can view the pilot as an opportunity to have studied an alternative but ultimately ineffective approach; however, the agency should not move forward with further testing or ultimate implementation of this proposed approach.

II. The Current English Test Approach Supports Objective Scoring, Whereas a Picture-Based Test Introduces Ambiguity, the Possibility of Cultural Misunderstanding, and Likely Declines in Pass Rates

We disagree with USCIS's suggestion, in presentations and public surveying about the test pilot, that the current English testing processes lack standardization and that the proposed picture-based test will address this lack of standardization. The current English speaking test concerns only the discrete set of topics covered on the Form N-400, and encompasses questions that have clear, objective answers, such as, "What is your date of birth?" Determining whether an applicant has understood and responded appropriately to current test material is straightforward. We do note that as early as 2021, members of the NWG urged USCIS to assess oral English proficiency using simple questions from the Form N-400, and to avoid using those with complicated vocabulary or syntax¹⁶, and we note that this is the approach to revising the English test that the agency should pursue. However, we still maintain that asking questions from the Form N-400 achieves standardization, and that if more standardization is the goal, the NWG's proposed regulatory and policy manual changes would give further definition and objectivity to the test without opening the process up to further ambiguity or pitfalls for applicants.

Picture-based tests do not have definitive answers, in contrast to the application-based questions currently in use. They are likely to elicit widely varied responses that cannot be evaluated as quickly or readily as whether a person has understood and responded correctly to a request for biographical information. Applicants' responses will reflect the full diversity of

¹³ For example, the Rehabilitation Act would require USCIS to offer alternatives to testing by reading off a tablet screen for blind and low vision applicants. 29 USC §794(a); *also* Department of Homeland Security, *Disability Access at the Department of Homeland Security* (Feb. 27, 2023), <https://www.dhs.gov/disability-access-department-homeland-security>.

¹⁴ *E.g.*, Exec. Order No. 14012 (Feb. 2, 2021).

¹⁵ *E.g.*, Exec. Order No. 13985 (Jan. 20, 2021).

¹⁶ NWG Citizenship Test Working Group, Letter to USCIS Director Ur Jaddou Regarding Ongoing Issues and Recommendations Regarding the Citizen Test and Request for Regular Engagement (Sept. 17, 2021).

human cultural backgrounds and lived experiences, and we cannot imagine standards or training that would enable officers to anticipate or distinguish between misuse of English and different but equally valid interpretations of images. For example, an applicant might reasonably describe a person making an “okay” hand symbol as seeming angry or ready to fight, even if smiling, because the gesture has an offensive meaning in some parts of the world, while an adjudicator might also reasonably conclude that the applicant had failed to understand English terms in ordinary usage. In addition to introducing ambiguities for applicants, implementing this proposed test will increase the burden on adjudicators and extend the length of the interview, which will stymie the progress USCIS has made on the naturalization backlogs.

If USCIS were to adopt this less standardized version of an English speaking test, we foresee that pass rates would fall because the new test would require applicants to be ready to use a wider and more complex vocabulary than is required under the current approach or the approach we have proposed. Similarly to the written multiple-choice civics test, a picture-based English test is estimated to raise the proficiency level required for passage from NRS Level 2 ESL to Level 3 ESL by expanding the number of topics and situations and increasing the grammatical mastery required for passage.¹⁷ Making the naturalization English test substantively more difficult without precedent or mandate is contrary to what the agency and the Administration profess as their goal, and we concur. The picture-based test would diminish access to U.S. citizenship, and USCIS should not adopt it.

III. Separating Testing and Interviews Would Lengthen Processing, Increase Burdens on Adjudicators and Applicants, and Exacerbate Backlogs

We are alarmed that the separation of civics and English testing from naturalization interviews could obligate applicants to make more trips to sometimes-distant USCIS offices and prevent qualified people from obtaining U.S. citizenship, while also increasing the time and effort adjudicating officers spend on each application and worsening backlogs. We disagree with USCIS’s suggestion that applicants will routinely experience less stress if testing takes place apart from the interview process. Instead, we would predict heightened anxiety if separating these procedures meant having to appear in person twice on different days, or to meet with multiple officers. As the agency knows, many applicants live as much as hundreds of miles from the Field Office that serves them, and the time and expense of travel on the schedule dictated to applicants by USCIS is substantial or unaffordable for many.¹⁸ Our long experience supporting

¹⁷ Bill Bliss, *supra* note 5. We have observed that many applicants at NRS Level 2 are able to understand simple commands and questions related to personal information and use sufficient English to meet immediate needs during the normal course of their interview.

¹⁸ A substantial number of applicants and people eligible for naturalization have lower incomes: for example, according to naturalization statistics published by USCIS, in FY 2022, 13.7% of 967,500 people naturalized, or more than 132,000 individuals, qualified for N-400 fee waivers based on receipt of means-tested benefits, household income below 150% of poverty level, or extraordinary financial hardship. Actual applicants for naturalization tend to have higher incomes than all people who are eligible to apply, New Americans Campaign et al, *Webinar on Reducing Barriers to Citizenship: New Research and the Need for a Partial Fee Waiver* (Jan. 8, 2015), <https://newamericascampaign.org/wp-content/uploads/2017/05/New-Research-on-Reducing-Barriers-to-Citizenship-1-8-15-Webinar-Powerpoint.pdf>, so increasing the costs associated with naturalization will hit

naturalization applicants also tells us that timing cannot mitigate the negatives that accompany anticipation of a challenging test with high stakes, for those who will struggle the most to satisfy English and civics knowledge requirements.

The added time and burden for adjudicators of conducting separate tests and interviews must be an important consideration for USCIS in light of the very substantial demands its workforce already confronts. The proposed structure would likely increase the adjudicator time spent on each application as compared to current practice. Interviews and other procedures that require physical appearance are staff time-intensive, as USCIS knows, since it included initiatives to reduce the number of biometrics and interview appointments it required applicants to make among its principal backlog reduction methods.¹⁹ The agency has made great progress in reducing backlogs, which we applaud, but it risks backsliding if it makes more work for its staff on one of the most frequently-filed forms it adjudicates.²⁰

IV. USCIS Should Solicit Public Feedback, and Disclose Data and Comments, Before Making Decisions About Next Steps

We appreciate USCIS's expressions of commitment to transparency and public engagement to meet its high customer service standards. To realize its vision, USCIS should ensure that stakeholders with lived expertise, including the cosigners of this letter, have meaningful opportunities to review pilot test results and provide comments that influence further decision-making.²¹ We are concerned that the agency may not envision releasing additional information to the public or responding to public feedback until after it has evaluated the first phase of the pilot and committed to proceeding to the second phase. The members of the NWG have requested on numerous occasions the opportunity to review data from the pilot test as well as communications and directions given to the Technical Advisory Group (TAG) so that feedback from long-time practitioners and testing experts can be incorporated in the official record and made part of the decision-making process at USCIS. We would like the opportunity to review relevant data and provide feedback at various stages of the pilot program before a decision is made on whether to move to the field office test pilot phase. Specifically, we would like to review:

people who could but haven't opted for citizenship even harder than FY22 fee waiver statistics would indicate.

¹⁹ USCIS, *Progress on Executive Orders* (Feb. 2, 2022), <https://www.youtube.com/watch?v=ukgAmPgAN4w> and <https://www.uscis.gov/newsroom/alerts/readout-of-director-ur-m-jaddous-virtual-briefing-with-stakeholders-to-mark-one-year-anniversary-of>.

²⁰ *E.g.*, USCIS, *Number of Service-wide Forms By Quarter, Form Status, and Processing Time, January 1, 2023 - March 31, 2023*, https://www.uscis.gov/sites/default/files/document/data/Quarterly_All_Forms_FY2023_Q2.pdf.

²¹ We acknowledge that USCIS has held a number of stakeholder sessions, but we do not feel our detailed concerns have been adequately addressed. We also note that many of our members provided feedback in response to the December 15, 2022 Federal Register Notice announcing the trial test process. Those comments were not made public and feedback sent to the redesign email inbox, natzredesign22@uscis.dhs.gov, is also not public. Thus, stakeholders do not know whether or how their input has been taken into account.

1. All feedback and information from the test pilot sites on how the proposed test will affect their students;
2. A copy of the TAG report once completed; and
3. Any data on the pass-fail rates of the proposed test or any other data which assess applicant performance on the test, as well as any other relevant data collected by USCIS as part of the pilot test.

To date, USCIS has not provided any indication that any information or data will be shared ahead of a decision about the future of the pilot, nor whether there will be a meaningful opportunity for stakeholder feedback after the TAG report is completed. The pilot test process will lose credibility if it proceeds without meaningful consideration of its stakeholders' collective experience with many thousands of aspiring citizens, particularly those most underrepresented and underserved, and our observation that the frameworks being tested will disproportionately harm vulnerable people and make citizenship harder to obtain for all LPRs. As noted above, the NWG is the policy complement to the New Americans Campaign, which is the largest collaborative of naturalization providers in the United States. USCIS should leverage the interest and fervor that the NWG members have shown in this process and consult with them before deciding on the future of the citizenship test.

V. Conclusion

In short, we request that USCIS strongly consider the issues we have presented in this and previous letters when deciding how to proceed with the pilot process. We further request that, through this process, the agency reaffirm its commitment to promoting naturalization, as directed by President Biden's executive order on restoring faith in the legal immigration system. Engaging with the public by allowing for more participation and meaningfully addressing concerns could strengthen stakeholders' support for the results of a process. Through actions that show how the agency has taken detailed recommendations into account, we are confident it will produce the best possible outcome from this review of the naturalization tests.

Thank you for your consideration, partnership, and your efforts to welcome new Americans.

Sincerely,

National

Boundless Immigration
CASA, Inc.
Citizenshipworks
Catholic Legal Immigration Network, Inc. (CLINIC)
Dominicanos USA
GMHC, Inc.
Immigrant Legal Resource Center
Immigration Equality

Immigration Hub
International Rescue Committee
Language & Communication Workshop
Latin America Working Group
Mujeres Latinas en Accion
NALEO Educational Fund
National Immigrant Justice Center
National Immigration Forum
National Immigration Law Center
National Partnership for New Americans
Naturalization Network
New Americans Campaign (NAC) Executive Committee
Oasis Legal Services
Pro Bono Net
Sojourners
UndocuBlack Network
UnidosUS
Unitarian Universalist Refugee & Immigrant Services & Education
Welcoming America

State/Local

Adhikaar
African Cultural Alliance of North America Inc. (ACANA)
Asian Americans Advancing Justice Southern California
Ayuda
Bonding Against Adversity
Border Network for Human Rights
BPSOS Center for Community Advancement
Cambodian Association of America (CAA)
Canal Alliance
Catholic Charities Atlanta
Catholic Charities Dallas Inc.
Catholic Legal Services, Inc., Archdiocese of Miami
Central American Resource Center
Central American Resource Center (CARECEN) of California
Central Valley Immigrant Integration Collaborative
Chinese Community Center
Chinese Information and Service Center (CISC)
City of North Miami
Comunidades Unidas
CUNY Citizenship Now!
Diocesan Migrant and Refugee Services Inc
Emerald Isle Immigration Center

Employee Rights Center
Episcopal Diocese of Los Angeles, Interfaith Refugee & Immigration Service (IRIS)
Farmworker Association of Florida
Florida Immigrant Coalition
Hamkae Center
HIAS Pennsylvania
Hispanic American Community Education and Services (HACES)
Illinois Coalition for Immigrant and Refugee Rights
Immigrant Law Center of Minnesota
Immigration Institute of the Bay Area
Interfaith Welcome Coalition - San Antonio
Kentucky Refugee Ministries (KRM), Inc.
Korean Community Service Center
Korean Resource Center (KRC)
Long Beach Community Hispanic Association Centro CHA Inc
Massachusetts Immigrant and Refugee Advocacy Coalition
Michigan Immigrant Rights Center
MinKwon Center for Community Action
New Mexico Immigrant Law Center
North Carolina Asian Americans Together (NCAAT)
OCA-Greater Houston
OneAmerica
Pars Equality Center
Proyecto Vida Digna
SAAVI
SAHARA (South Asian Helpline and Referral Agency)
Seamaac organization
Seattle Office of Immigrant & Refugee Affairs
South Asian Network
St. James Immigrant Assistance
The International Institute of Metropolitan Detroit
United African Organization
Wind of the Spirit Immigrant Resource Center
YMCA of Metropolitan Los Angeles

Individuals (affiliations provided for identification purposes only)

Ashley Cruz, Rutgers University
Carol L. Wolchok, Attorney, citizenship program manager, and teacher
Eleazar Valdez, CVIIC
Geovany Gonzaga, YMCA
Heide Spruck Wrigley, Literacywork International
Irma Durand, Rural Coalition
Josephine Choi, APALRC

Lynne Weintraub, Jones Library/Citizenship News
Nakkat Tadjiddine, ACANA
Rosaisela Lopez Cienfuegos, OCCORD
Vipulkumar, South Asian American Voice for Impact
Wonder Guannu, African Cultural Alliance of North America

cc: Felicia Escobar, Chief of Staff, Office of the Director
Stephen McHale, Chief, Office of Citizenship
Avideh Moussavian, Chief, Office of Policy and Strategy
Nathan Steifel, Acting Ombudsman, Citizenship and Immigration Services Ombudsman