

September 17, 2021

Director Ur Jaddou
U.S. Citizenship and Immigration Services
Department of Homeland Security
20 Massachusetts Avenue, NW
Washington, D.C. 20529-2140

RE: ONGOING ISSUES AND RECOMMENDATIONS REGARDING THE CITIZENSHIP TEST AND REQUEST FOR REGULAR ENGAGEMENT

Dear Director Jaddou:

On Citizenship Day 2021, the undersigned 9 members of the Citizenship Test Working Group, a subset of the Naturalization Working Group, respectfully request engagement and submit the following recommendations regarding barriers to naturalization within the citizenship test.

I. Introduction of Stakeholders and Expertise

The Naturalization Working Group (NWG) is coordinated by the National Association of Latino Elected and Appointed Officials (NALEO) Educational Fund and made up of national and local organizations committed to helping lawful permanent residents (LPRs) become United States citizens. The NWG strives to improve federal policies and practices related to naturalization and to educate legislators and other policymakers about the need to address barriers to naturalization. Our coalition's expertise derives from its multiple member organizations that have significant experience in promoting naturalization and 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 respected immigrant-serving organizations, legal service 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.

The NWG has formed a Working Group of members with specialized expertise on the citizenship test. The Working Group is comprised of education and policy experts in English and civics instruction and development of citizenship test preparation curriculum as well as legal practitioners who have represented thousands of applicants before USCIS. Many of the members have decades of experience with the test and were part of the earlier test revision process that led to the 2008 test. The Working Group has worked over the past five months to create a set of starting recommendations for the Biden administration to improve access to naturalization by removing barriers within the citizenship test, as set forth below.

II. Background on Issues: Changes to the Citizenship Test Under the Previous Administration and Continuation Under the Biden Administration

We welcome the creation of an Interagency Strategy for Promoting Naturalization announced by USCIS on July 2, 2021. We also applaud the Biden Administration's decision announced on Feb. 22, 2021, to rescind the 2020 citizenship test in response to public comments and concerns. However, issues with the administration of the English-speaking test implemented under the previous administration are ongoing and of grave concern to the Working Group, as they are continuing to cause improper denials of

eligible applicants and creating a barrier to naturalization. In addition, there is an ongoing lack of transparency and engagement regarding the citizenship test.

On Nov. 13, 2020, USCIS announced the release of a new civics test for citizenship that was significantly longer and more difficult than the previous version, which had been in place since 2008.¹ It was the culmination of a very rushed and non-transparent test revision process that began in December 2018, when USCIS formed an internal working group to consider changes to the test. There was no opportunity for broad or meaningful stakeholder engagement or input. In addition, USCIS provided a very short timeline for implementation of the new test on December 1, 2020, without adequate pilot testing. This created chaos for applicants, the educators preparing them for the test, and the USCIS Office of Citizenship, which was not able to update its numerous test preparation materials in time for effective implementation.

While USCIS was planning changes to the civics test, advocates noted the expansion of a troubling practice that made it more difficult for applicants to pass the English language test. Many adjudicators began to aggressively question applicants and ask them to define complex terms on the Form N-400 such as genocide, paramilitary unit, and totalitarian party. While this practice pre-dated the previous administration, it was less frequent or common in the past, growing over time as the N-400 grew longer and more detailed. Under the previous administration, it became even more frequent and widespread. Those who could not define or explain the complex terms on the N-400 in English were denied citizenship.

This widespread practice was utilized without authorization and caught applicants, educators, and legal representatives off guard. More importantly, this practice contradicts the statute and USCIS' policy guidance for administering the citizenship test. INA Section 312(a)(1) states that a naturalization applicant must demonstrate "an understanding of the English language, including an ability to read, write, and speak *words in ordinary usage in the English language*." USCIS Policy Manual Volume 12, Part E, Section D. English Portion of the Test states, "Ordinary usage means comprehensible and pertinent communication through simple vocabulary and grammar, which may include noticeable errors in pronouncing, constructing, spelling, and understanding completely certain words, phrases, and sentences." Part 1. Speaking Test states, "An applicant does not need to understand every word or phrase on the application."

III. Recommendations

The NWG Citizenship Test Working Group recommends the following actions for priority to increase access to naturalization:

1. USCIS should initiate as soon as possible, a process for stakeholder engagement on the citizenship test and establish ongoing, regular dialogues on this subject to facilitate better communication, increase transparency, and improve access to naturalization.
2. USCIS should take steps to immediately address the problems with the English-speaking test in a systematic and comprehensive way. USCIS should provide additional training to adjudicators on the administration of the English-speaking test to clarify that adjudicators cannot quiz applicants on the meaning of legal terms in the N-400. Furthermore, to ensure compliance, USCIS should

¹ <https://www.uscis.gov/news/news-releases/uscis-announces-a-revised-naturalization-civics-test>.

establish a reporting system to identify, track, and address situations where adjudicators are not following the correct procedures. USCIS should provide community outreach and education regarding the English-speaking test to ensure that local communities know what to expect and how to report violations. Applicants who have been improperly denied should have an opportunity for reconsideration.

3. USCIS should review its Policy Manual guidelines for administering the English-speaking test and make changes to explain more clearly how adjudicators should assess English speaking ability during the naturalization interview. The policy should ensure that complex vocabulary terms and questions on the Form N-400 are not used to test English language ability. **A copy of the guidelines with our recommended changes is below the signatories on this letter.**
4. USCIS should review the regulations (8 CFR § 312.1(c)(1)) and make changes needed to ensure that complex vocabulary terms and questions on the Form N-400 are not used to test English language ability. The regulations should limit the English-speaking test to questions about the applicant's current basic personal information. **A copy of the regulations with our recommended changes is below the signatories on this letter.**
5. In order to increase transparency, USCIS should regularly publish key data on its website regarding pass rates for the English and civics portions of the citizenship test. The data should help inform policy and practice. Specifically: 1) The data should separate the English test results from the civics test results. 2) On English, it should specify if the reason for rejection is reading, writing, or speaking, and what are the most common questions that lead to a finding that the applicant does not have sufficient English for naturalization. 3) For the civics test, USCIS should share the top ten questions applicants fail to answer correctly in order to help educators better prepare their students for the test. 4) The data should provide passing/rejection rates for both the first and second interview.

IV. Conclusion

Thank you for your consideration of our recommendations and request for ongoing engagements. We look forward to working in partnership with USCIS to promote naturalization, address barriers, and improve access. Please contact Lisa Parisio, Director of Advocacy at the Catholic Legal Immigration Network, Inc., at lparisio@cliniclegal.org with any questions or to schedule an engagement.

Sincerely,

Individual Expert Members of the Citizenship Test Working Group

Bill Bliss

Bill Bliss has worked in English language and civics education since 1974 as a teacher, trainer, curriculum developer, and consultant, and has provided technical assistance on citizenship training and testing since the 1980s legalization program. He is the author of a widely used civics course that prepares learners for the naturalization process.

Carol L. Wolchok

Carol L Wolchok is an attorney, Citizenship program manager, and teacher.

Organizational Expert Members of the Citizenship Test Working Group

Illinois Coalition for Immigrant and Refugee Rights

Throughout our history ICIRR has advocated to make citizenship more accessible and pushed back against proposals and practices that limit access to citizenship. Since 2005 we have partnered with the State of Illinois on our New Americans Initiative citizenship program to provide application assistance, legal screening and referrals, and citizenship education for naturalization applicants.

NALEO Educational Fund

NALEO Educational Fund has provided naturalization assistance services to Latino LPRs for three decades, and has been a key advocacy organization for a fair and accessible naturalization process during that time. We were actively engaged in the last major re-design of the naturalization exam and when Alfonso Aguilar was with USCIS, and worked collaboratively to oppose the version of the test the Trump Administration attempted to implement.

Immigration Institute of the Bay Area

The Immigration Institute of the Bay Area has been providing legal services to refugees and immigrants for 103 years.

International Rescue Committee

IRC's network of 24 legal services programs, which has been recognized by the U.S. Department of Justice since 1958, is committed to providing high quality, affordable, and essential immigration services to primarily low-income refugees, asylees, and other vulnerable immigrants who have obtained or are pursuing forms of humanitarian protection. In tandem legal services, many IRC offices provide civics education classes to prepare N-400 applicants for the citizenship interview and test. This includes six IRC offices who are current grantees of the USCIS Citizenship and Assimilation Grant.

Massachusetts Immigrant and Refugee Advocacy Coalition

MIRA is the largest coalition in New England promoting the rights and integration of immigrants and refugees. We are also proud to provide naturalization application assistance, and have submitted more than 2,400 applications since 2013.

Citizenship News

Citizenship News is an online resource for citizenship educators. The editor, Lynne Weintraub, is a citizenship textbook author, program director, and educational consultant who was a contractor with USCIS for the 2008 revision of the US citizenship test.

Catholic Legal Immigration Network, Inc.

The Catholic Legal Immigration Network, Inc. (CLINIC) is the nation's largest network of nonprofit immigration legal services providers. Naturalization is practiced by over 90 percent of these nonprofits with a sizeable majority reporting each year that this benefit is the number one or two most requested service by clients. CLINIC estimates that up to 40,000 naturalization applications are filed by its network each year. In CLINIC's history it has provided up to \$25 million in grants to its network to promote and facilitate naturalization for low-income immigrants. It is a founding national partner for the New Americans Campaign, now in its eleventh year. CLINIC published A More Perfect Union: A National Citizenship Plan which Grantmakers Concerned for Immigrants and Refugees stated was, "the authoritative work on the subject of naturalization."

ADDENDUM I: Recommended changes to the USCIS Policy Manual are in **red bold** below.

USCIS Policy Manual

Volume 12 – Citizenship and Naturalization

Part E - English and Civics Testing and Exceptions

Chapter 2 - English and Civics Testing

D. English Portion of the Test

A naturalization applicant must only demonstrate an ability to read, write, speak, and understand words in ordinary usage.^[6] Ordinary usage means comprehensible and pertinent communication through simple vocabulary and grammar, which may include noticeable errors in pronouncing, constructing, spelling, and understanding completely certain words, phrases, and sentences.

An applicant may ask for words to be repeated or rephrased and may make some errors in pronunciation, spelling, and grammar and still meet the English requirement for naturalization. An officer should **inform applicants of this clarification option and should** repeat, rephrase, **and simplify** questions until the officer is satisfied that the applicant either fully understands the question or is unable to understand English.^[7]

1. Speaking Test

An officer determines an applicant's ability to speak and understand English based on the applicant's ability to respond to questions **about the applicant's basic personal**

information normally asked in the course of the naturalization examination. **The officer's questions related to the applicant's basic personal information for purposes of the English test are limited to asking for or verifying the applicant's name, address, date of birth, country of birth, country of citizenship or nationality, contact information, family members (parents, children, current spouse), marital status, current employment, and current residence.** ^[8] The officer should repeat, rephrase, **and simplify** questions during the naturalization examination until the officer is satisfied that the applicant either understands the questions or does not understand English.

An applicant who does not qualify for a waiver of the English requirement must be able to communicate in English about his or her application and eligibility for naturalization. An applicant does not need to understand every word or phrase on the application.

Passing the Speaking Test

If the applicant generally understands and responds meaningfully to questions **about basic personal information relevant to the applicant's naturalization eligibility as set forth above**, then he or she has sufficiently demonstrated the ability to speak English.

Failing the Speaking Test

An applicant fails the speaking test when he or she does not understand sufficient English to be placed under oath or **respond meaningfully to questions about basic personal information relevant to the applicant's naturalization eligibility**. The officer must still administer all other parts of the naturalization test, including the portions on reading, writing, and civics.

An officer cannot offer or accept a withdrawal of a naturalization application from an applicant who does not speak English unless the applicant has an interpreter present **and the applicant is able** to clearly understand the consequences of withdrawing the application.^[9]

ADDENDUM 2: *Recommended changes to the regulations are in **red bold** below.*

8 CFR §312.1 Literacy requirements.

(c) *Literacy examination*—(1) *Verbal skills*. The ability of an applicant to speak English will be determined by a designated immigration officer from the applicant's answers to questions **about the applicant's basic personal information** normally asked in the course of the examination. **Such basic personal information is limited to asking for or verifying the applicant's name, address, date of birth, country of birth, country of citizenship or nationality, contact information, family members (parents, children, current spouse), marital**

status, current employment, and current residence. Eligibility questions concerning criminal and immigration history, political activities and beliefs, military training and service, physical or mental health, and other questions in Part 12 of the N-400 are not appropriate bases upon which to evaluate an applicant's understanding of English or English speaking ability.