



CATHOLIC LEGAL
IMMIGRATION
NETWORK, INC.

Helping Clients with Disabilities to Naturalize
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Presenter

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Agenda

- Reasonable Accommodations
- Disability Waivers
- Oath of Allegiance Waivers



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Access to Naturalization Process for Disabled

Rehabilitation Act of 1973 - Section 504 provides that “no otherwise qualified individual with a disability in the United States... shall, solely by reason of her or his disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity... conducted by any Executive agency.”

Reasonable Accommodations

- Modifications of USCIS policies or procedures to enable the disabled to participate in the naturalization process
- Must still meet eligibility requirements
- Modification will depend on individual’s disability; may need more than one and at different stages of process

Examples of Accommodations

- Sign language interpreter
- Additional time for test
- Oral test or larger print
- Non-verbal communication
- Presence of family members, guardians, social workers, etc.
- Others?

Case Example

Abebe, age 52, is legally blind due to advanced glaucoma. As a result, he is unable to read or write. However, he is able to speak English fairly well, and has been studying the U.S. history/civics test questions with the help of a friend.

How to Request Accommodations

- Request at any time in naturalization process
- Complete Part 3 on N-400 (p. 2)
- If requested *after* filing N-400, write letter and bring it to the interview (be sure to notify USCIS in advance if needed)
- Sample letter on CLINIC website, https://cliniclegal.org/clinic_toolkit/citizenship
- Applicant may also call NCSC, 1-800-375-5283
- No documentation required

Disability Waiver

- An exemption from the English and/or U.S. history/civics test for applicants with certain disabilities
- INA § 312(b)(1)

Disability Waiver: Eligibility Requirements

- Must have medically determinable physical or developmental disability or mental impairment
- One or combination
- Permanent
- Disability must be so severe that the person is *unable* to learn English, history, or civics
- Must be unable to pass tests with accommodations
- Disability cannot be the result of illegal drug use
- Must be certified by a licensed medical doctor, clinical psychologist (Ph.D.) or doctor of osteopathy (D.O.) on Form N-648

Ineligible Conditions

- Old age
- Illiteracy
- Lack of education

Case Example

Rima, age 72, has been diagnosed with vascular dementia due to a series of strokes she suffered about 10 years ago, before she came to the U.S. A CT scan shows brain damage. Her symptoms include memory impairment, confusion, short attention span, weakness on one side of her body, and difficulties with daily activities such as cooking and caring for herself. She lives with her daughter, who takes care of her.

Disability Waiver Application, Form N-648

- Current version dated 3/21/17, <http://www.uscis.gov/n-648>
- All parts of form to be completed by doctor, except applicant attestation & interpreter certification
- Must be legible, preferably typed
- Doctor should avoid medical jargon
- Provide DSM-V or ICD code if applicable

Form N-648, cont'd

- Make sure N-648 consistent with any previous N-648s submitted
- Legal representative not allowed to complete N-648 for the doctor, but medical staff can
- Question #10 (p. 4) is key – must have detailed response
- See N-648 instructions for sample response

Question #10: The Connection

“Clearly describe how the applicant’s disability and/or impairment(s) affect his or her ability to demonstrate knowledge and understanding of English and/or civics.”

The Disability Waiver Process

- N-648 should be filed with the N-400 (ideally), but may be filed at the interview
- N-648 must be filed within 6 months of doctor's signature, but does not expire after filing
- No additional fee (except for doctor's fee)
- Two chances to submit a complete N-648

Practice Tips

- Work with the doctor to submit the best N-648 possible with the N-400
 - <http://ethnomed.org/cross-cultural-health/immigration-naturalization/n-648-medical-certification-for-cis-disability-waivers-updated>
- Avoid mentioning applicant's illiteracy or lack of formal education
- Always keep a copy
- Recommend legal representation at interview
- Be prepared!

What if N-648 not approved?

- If N-648 is not accepted, make sure you get reasons (in writing for first N-648)
- If disagree with decision, ask to speak with a supervisor
- Work with doctor to provide additional information
- Can appeal a denial with a new N-648 or additional info.

Appealing a Denied N-648

- File Form N-336 within 30 days of receiving denial decision
- Current fee \$700
- Hearing within 180 days with a different officer
- Submit new N-648 and/or additional information
- A brief is helpful

Oath Waiver

- INA § 337(a)
- USCIS can waive oath of allegiance if applicant is disabled and can neither understand nor communicate understanding of oath *due to physical or developmental disability or mental impairment*
- Does not waive other requirements for naturalization
- Separate from N-648 disability waiver

Case Example

Jose, age 25, came to the U.S. with his parents 10 years ago. He was born with severe developmental disabilities, and requires 24-hour care. He has very limited speech, movement, and mental capacity. His parents want him to become a U.S. citizen.

The Oath Requirement

Applicant must understand that he/she is:

- Becoming a U.S. citizen
- Giving up allegiance to native country
- Personally and voluntarily agreeing to a change in status

Note: May be conveyed in simplified terms.

Oath Waiver Process

- Submit a written request with the N-400, ideally
- Can request at any time in the naturalization process
- Include a detailed, written evaluation from a licensed medical professional
- A legal guardian, surrogate, or designated representative must testify on the applicant's behalf

Medical Evaluation

- Completed by medical professional who has longest relationship with the applicant or is most familiar with applicant's medical history
- Explain applicant's condition and disability in layman's terms
- Describe how and why the disability makes the person unable to understand or communicate an understanding of the oath
- Explain likelihood of applicant being able to take oath in near future
- Include medical professional's signature and state license number

Who can testify on applicant's behalf?

- A legal guardian or surrogate designated by a court and authorized to exercise legal authority over applicant's affairs
- In the absence of the above (and by order of priority), a U.S. citizen spouse, parent, adult son or daughter, or adult brother or sister who has primary custodial care and responsibility
- Status and relationship with the applicant must be documented

Summary

- *All* disabled applicants are eligible for reasonable accommodations
- *Some* are eligible for a disability waiver
- A very small number are eligible for an oath waiver
- May need to use these alone or in combination
- Important to evaluate each applicant on a case-by-case basis

References

- USCIS Policy Manual, Vol. 12, Citizenship & Naturalization,
<http://www.uscis.gov/policymanual/HTML/PolicyManual-Volume12.html>
 - Part C (on accommodations)
 - Part E, Chapter 3 (on disability waivers)
 - Part J, Chapter 3 (on oath waivers)

Additional Resources

- CLINIC's Citizenship Toolkit, <https://cliniclegal.org/citizenship>
- Flow chart of the N-648 process, https://cliniclegal.org/sites/default/files/disability_flow_chart_final_6-10-15.pdf
- Guide on strategies for naturalizing the most vulnerable applicants, https://cliniclegal.org/sites/default/files/236953_clinic_handbook-p4-final.pdf

How can we help Sead become a U.S. citizen?

- Age 40, LPR for 15 years
- Diagnosis of paranoid schizophrenia
- Limited English speaker
- Experiences anxiety and stress when questioned, especially by stranger
- Functions at higher level when with brother

How can we help Amira become a U.S. citizen?

- Age 65, LPR for 6 years
- Refugee – husband and two children killed in war
- Lives with adult son
- Suffers from increased memory loss
- Nightmares, insomnia, feelings of hopelessness

How can we help Alvin become a U.S. citizen?

- Age 38, LPR for 13 years
- Born deaf, no special education, illiterate
- Communicates in simple gestures only his family understands; lip reads
- Applied for citizenship 3 years ago and failed test
- N-648 not granted, told “deaf people don’t qualify for N-648”



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Questions?



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