



U.S. Department of Justice
Immigration and Naturalization Service

*425 I Street NW
Washington, DC 20536*

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MEMORANDUM FOR ALL REGIONAL DIRECTORS
ALL DISTRICT DIRECTORS
ALL OFFICERS-IN-CHARGE
ALL SERVICE CENTER DIRECTORS

FROM: William R. Yates /S/
Deputy Executive Associate Commissioner
Office of Field Operations
Immigration Services Division

SUBJECT: Guidance on Making the Naturalization Process Accessible to Applicants with
Disabilities

This memorandum provides comprehensive policy guidance on how to make modifications or accommodations in the practices or procedures of the naturalization program for applicants with disabilities. Each field office must use this guidance to provide accommodations for naturalization *applicants* with disabilities. **Field offices must come into compliance with this guidance within 90 days of the date of this memorandum.**

To assist field offices in complying with this guidance, this memorandum suggests best practices that offices can implement in processing requests for, and in providing, accommodations. The memorandum also provides examples of types of accommodations that may be provided at each stage of the naturalization process. We encourage each field office to work with the local community-based organizations (CBOs) and AILA chapter as the office works to come into compliance with this guidance.

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I. Background

Section 504 of the Rehabilitation Act provides that “[n]o 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 receiving Federal financial assistance or under any program or activity conducted by any Executive agency.”¹ As a federal agency, the Immigration and Naturalization Service (INS) may not exclude qualified persons with disabilities from its programs or activities based solely on the person’s disability. To ensure that persons with disabilities are not excluded from INS programs or activities because of their disabilities, the Rehabilitation Act requires the INS to provide modifications or accommodations that permit qualified persons with disabilities to have an equal opportunity to participate in its programs.²

The Rehabilitation Act requires INS to provide accommodations that will help the particular applicant with a disability to fully participate in the naturalization program. In the naturalization context, INS must provide accommodations for naturalization applicants who have physical and/or mental impairments that make it difficult for them to complete the naturalization process.

1. *Difference between Accommodations and Statutory Waivers*

Accommodations are *different* from statutory waivers. If an individual receives a waiver, that individual does not have to meet the specific naturalization requirement for which the waiver is granted. All applicants qualifying for a waiver receive the same relief. For example, all applicants receiving an English test waiver will not have to take the English exam. Existing waivers (also called exemptions) cover the English and/or civics requirements and the oath of allegiance.

On the other hand, an accommodation is a *modification*, not an exemption from an existing practice or procedure that will allow an applicant with a disability to participate in the naturalization process. The applicant will still have to satisfy the requirement; however, the *manner* in which the applicant demonstrates meeting the requirement is changed. Accommodations are likely to vary with the individual’s disability. For example, an applicant who is unable to use his or her hands should be permitted to take the civics tests orally. An applicant who is unable to speak might receive an accommodation that would allow that applicant to respond to questions on the English and/or civics test with a previously agreed upon

¹ 29 U.S.C. § 794(a).

² 28 C.F.R. §§ 39.103 & 39.149-60.

nonverbal form of assent. *The essential aspect of an accommodation is that it is effective in allowing the applicant to participate fully in the naturalization process.*

2. *When INS Does Not Have to Provide Accommodations*

The Rehabilitation Act requires that the INS operate each program or activity so that the program or activity, when viewed in its entirety, is readily accessible to and usable by persons with disabilities. This does not require the INS to take any action that would result in a fundamental alteration in the nature of the naturalization program for this individual applicant or in undue financial and administrative burdens in conducting the naturalization program.³

Only on rare occasions will an accommodation requested by an applicant rise to the level of a fundamental alteration of the program or an undue burden for the agency. In most cases, the field office must provide either the specific accommodation requested by an applicant with a disability or an alternative accommodation that enables that applicant to participate in the naturalization process.

II. Three Steps to Handling Requests for Accommodations

The obligation to request an accommodation for a particular program requirement is initially on the *applicant* (or someone acting on the applicant's behalf). However, once an accommodation has been requested, the obligation is then on the *field office* to provide a timely response to that request.

The duty to provide accommodations is ongoing. Certain individuals may only require one accommodation, while others may need more than one. Certain individuals may need one accommodation at a particular stage of the naturalization process, and then, at a later date, require another type of accommodation. The following three steps should be taken when processing requests for accommodations.⁴

1. Each field office must respond to inquiries on how applicants with disabilities can request accommodations, process the requests, and provide the accommodations.
2. Each field office must have procedures for handling all requests for accommodation, *regardless of when the request is made*. Applicants may submit a request for an

³ See 28 C.F.R. § 39.103 (definition of qualified handicapped person) and § 39.150 (describing agency obligation to make programs readily accessible to persons with disabilities).

⁴ See Appendix 2, Examples of Accommodations.

accommodation with the N-400, or may submit requests directly to the field office at any time during the naturalization process.

3. An office's ability to provide an accommodation on the date that it is needed will depend on when the accommodation was requested and whether the accommodation is one that requires advance planning. Some types of accommodations, such as speaking loudly and slowly to an applicant with a mild to moderate hearing impairment, or allowing an applicant to take extra time to write the answers to a civics test because of arthritis, do not require advance notification and can be immediately provided. Others, like arranging for a sign language interpreter or scheduling an applicant for a homebound interview, cannot be accommodated without advance planning.

Field offices should strive to provide all accommodation requests on the date that the applicant is originally scheduled to complete the naturalization process. Whenever possible, field offices should avoid having to reschedule an examination or the oath because an accommodation is not available. If the accommodation cannot be made available on the scheduled date of the examination, the applicant should be notified as soon as possible that the accommodation will not be available and the examination should be rescheduled within a reasonable period of time.

➤ **Each field office must designate staff to handle accommodations requests.**

To assure accountability, each field office must designate *who* will be responsible for handling accommodations requests from naturalization applicants. Regardless of how many staff members are tasked to handling requests for accommodations, the office must ensure that the *entire* INS staff is aware of the procedure for handling such requests and can direct applicants to the appropriate person or persons.

➤ **Each field office must provide information to applicants on how to request accommodations from the field office.**

➤ **Each field office must ensure that an applicant may request an accommodation *after* his or her naturalization application has been filed.**

A field office may not bar requests for accommodations that come in after the applicant has filed his or her naturalization application. Many applicants may be unaware of their right to request an accommodation; others may develop a disability (or their impairments may worsen) after their applications have been filed. Field offices must allow applicants to submit accommodations requests at any time during the naturalization process.

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➤ **Each field office must review accommodations requests in a timely fashion.**

Each field office must review and respond to requests for accommodations that may be received in advance or received on the day that the accommodation is needed. The office must respond to requests for accommodation *as promptly as possible*, depending on the nature of the request and the resources of the office. If an office is unable to provide a requested accommodation on a certain date, the applicant should be notified and rescheduled as soon as possible.

The office must evaluate each request and contact the applicant (and his or her attorney or accredited representative) if further information is needed before the request can be approved. While an applicant is not required to include documentation of his or her impairment with the accommodations request,⁵ in some cases, documentation may be needed to determine if the applicant is eligible for an accommodation. The office must inform the applicant (and his or her attorney or accredited representative) if an *alternative* accommodation has been approved, and explain the alternative.

➤ **Inform applicants in the rare case when a request for accommodation is rejected.**

In the rare case where a request for accommodation is rejected by the field office, the office must provide the applicant (and his or her attorney or accredited representative) with an explanation of why the accommodation was rejected and provide an appropriate alternative accommodation. Applicants who believe that they have been unlawfully denied an accommodation may file a complaint with the Department of Justice Civil Rights Division pursuant to 28 CFR Part 39.

III. Conclusion

INS Service Centers and field offices must make every attempt to help naturalization applicants with disabilities proceed through the naturalization process. DAOs are reminded again of the need for utmost courtesy, respect and sensitivity in dealing with applicants with physical or mental impairments who need accommodations to effectively complete the naturalization process.

⁵ See Policy Memorandum No. 47 on Section 312 Disability Naturalization Adjudications, issued on April 7, 1999, **K. Reasonable Accommodations and Modifications under the Rehabilitation Act**. With accommodations or modifications, many applicants with disabilities will be able to meet the section 312 requirements. Section 504 of the Rehabilitation Act of 1973 requires all Federal agencies to make reasonable accommodations for persons with disabilities. Applicants are not required to file an N-648 or present a letter or other documentation from their doctor to request an accommodation or modification to the naturalization process because of a disability.

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Field offices must comply with this guidance in providing naturalization applicants with physical or mental impairments with the accommodations they need to participate in the naturalization process. Providing accommodations to persons with physical or mental impairments will help many qualified applicants to successfully complete the naturalization process. In addition, providing such accommodations enables the INS to fulfill its obligations under Section 504 of the Rehabilitation Act.⁶

Please refer to Appendix 1 for accepted practices for training, scheduling, and processing accommodation requests. Please refer to Appendix 2 for examples of possible accommodations.

If you have any questions about this guidance, please contact Kellie LeClair, Business Process and Reengineering, Immigration Services Division at (202) 307-9919.

⁶ The INS has a separate policy for providing accommodations to INS employees with disabilities. Please contact HQEEO.

Appendix 1

Accepted Practices

A. Training

- Train *all* staff members on how to appropriately evaluate and respond to accommodation requests.
- Designate *one* staff member or a specific unit to evaluate and respond to all requests for accommodations. The field office must describe how it will ensure that accommodation requests are handled properly if the designated person is out of the office or is otherwise unable to fulfill those duties. Be sure all staff is aware of the accommodations process.

B. Informing the Public

- Create and distribute a pamphlet or flyer that clearly explains the process to applicants.
- Use an automated answering machine system to provide information regarding procedures to request accommodations (including the use of a dedicated TDD line for persons with hearing impairments⁷).
- Provide informational seminars for your local CBOs and AILA chapter.

C. Scheduling Accommodations

- Identify applicants who have submitted requests for accommodation. In some cases, an applicant will submit a request for an accommodation even before the field office has received the applicant's naturalization file from the service center. Each field office must have a process for receiving and filing such requests so that they can be matched to the applicant's file when it arrives from the service center.
- Accept requests for accommodation in any written form, from either the applicant or his or her attorney or accredited representative.
- Accept oral requests for accommodations if the request is made on the day the accommodations are needed and the accommodation can be easily provided.

D. Processing Accommodations

- Set time deadlines (or goals) for reviewing a request. For example, set a goal that all requests for accommodations be reviewed and decided in 30 days or less.
- Ensure that the applicant receives the approved accommodation. Once an applicant's request for accommodation has been approved (or an alternative accommodation has been approved), the field office must ensure that the accommodation is provided to the

⁷ If your office does not already use such a device, Headquarters may be able to procure one for you at no cost. Please contact Kathy Lane from HQEEO at 202-514-1246.

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applicant on the scheduled day and at the scheduled time (either on the date and time originally scheduled, or as rescheduled by the office in accordance with its rescheduling procedures).

- Notify applicants (and their attorneys or accredited representatives) by letter *before* the date of the naturalization examination if an accommodation to the examination cannot be provided at the scheduled time or on the scheduled day. Notify the applicant (and the attorney or accredited representative) of any need to reschedule by telephone (or, if the applicant is hearing impaired, by TDD) if there is insufficient time to reach the applicant by mail before the originally scheduled examination date.
- Set a deadline or goal for rescheduling any examinations that must be postponed because an accommodation could not be made available on the originally scheduled date (for example, set a goal that all examinations canceled for this reason must be rescheduled within 30 days of the original date).

Appendix 2

Examples of Accommodations

Set forth below, are *examples* of possible accommodations. The list of examples is not intended to be an all-inclusive list. Field offices must evaluate each request for an accommodation *individually* and provide an accommodation that addresses the unique needs of the particular applicant. As discussed above, if the particular accommodation requested by the applicant cannot be provided, the field office should provide an appropriate alternative accommodation.

1. Off-site Accommodations

If an applicant, because of the severity of his/her disability, is unable to appear in person, field offices may conduct off-site visits at the homes or residences of applicants with disabilities, or at an alternate location as determined by the agency. In addition, some applicants may have impairments that confine them to their homes or residences (such as a nursing home). Accommodations for persons who are unable to access the field office include:

- **Off-site interview.** If an applicant's illness or disability makes it medically inappropriate for the applicant to appear at the field office, an examiner should conduct the interview in the applicant's home or at an alternate site (e.g., nursing home, hospice, hospital, senior citizens center). This includes applicants who would require use of a stretcher or ambulance to appear at the field office.

Note: Some applicants who may have qualified for an off-site interview will nevertheless appear at a field office for a regular interview. Examiners should make an effort to attend to such applicants expeditiously and make arrangements to naturalize the applicant in the office on that day if approvable and request supervisory review, whenever possible.

- **Off-site administration of the oath.** If an applicant's illness or disability makes it medically inappropriate for the applicant to appear at an oath ceremony, examiners should, if possible, administer the oath after the naturalization interview. If this is not possible, a second in-home visit should be scheduled to administer the oath. However, it is important to note that some applicants may complete the interview at the field office, but later be unable to attend an oath administration ceremony because of a deteriorating condition (or because they become disabled or impaired after the interview).
- **Off-site fingerprinting.** Refer to the ASC SOP regarding off-site fingerprinting.

2. *Accommodations for Naturalization Examination*

a. General

The naturalization examination process can be a challenge for many applicants with physical and/or mental impairments. Field offices can make several modifications to the naturalization examination to provide accommodations to such applicants. Field offices should establish procedures that increase the likelihood that applicants will be examined on their scheduled examination day, at the designated appointment time, and that minimize the need to reschedule examinations. The following are examples of accommodations for the examination of the applicant's eligibility for the naturalization program.

- **Prompt examination.** Some applicants with disabilities are unable to wait in an office for an extended period of time. Therefore, if an applicant can be examined at the field office, but would be prevented from waiting for the examination due to disability or medical reasons, the field office should *make every effort* to examine the applicant *promptly* at the designated appointment time. Examples of applicable medical reasons may include, but are not limited to, extreme fatigue, behavioral problems, special needs related to the effects of medication and problems sitting for long periods of time.
- **Extended examination time and breaks.** Some applicants with disabilities may need more time than usually allotted to comprehend, process and provide information. Therefore, examiners should provide applicants with disabilities with additional time and should allow them to take breaks, if necessary.
- **Assistance for applicants with hearing impairments.** Field offices must ask an applicant with a hearing impairment which method of communication the applicant prefers and employ that method if possible. The common methods of communication are: sign language, lip reading, note writing, telephone devices for the deaf (TDD) or some combination of these methods. If a sign language interpreter is requested, the field office can provide a sign language interpreter who is linguistically matched to the applicant or allow an applicant to provide an interpreter of the applicant's own choosing and approved by the Service.
- **Assistance for applicants with vision impairments.** Examiners should conduct all aspects of the examination orally to accommodate applicants who are completely or partially blind.

- **Assistance for nonverbal applicants.** Examiners should allow nonverbal applicants to point to answers written on a piece of paper (i.e., the DAO writes “yes” and “no” on a piece of paper, and the applicant points to “yes” or “no” in response to questions requiring merely a “yes” or “no” answer). Alternatively, an examiner should accept any other nonverbal forms of communication, such as blinking, nodding/shaking head, and tapping, that have been previously agreed to by the applicant (or his or her attorney or accredited representative) and the DAO.
 - **Presence of family member, guardian, social worker or other familiar individual during the examination.** The presence of a family member or other familiar person may help applicants with disabilities remain calm and responsive during the examination. As an accommodation, the field office may allow applicants to bring such an individual with them to the examination. The applicant may need the individual to keep the applicant company or to calm the applicant. An applicant may bring this individual into the examination *in addition* to an interpreter or that person may also serve as an interpreter, depending on the field office’s policies regarding interpreters. Under the direction and supervision of the examiner, the family member may *repeat* the questions posed by the examiner if this repetition is needed to facilitate a responsive answer.
- b. Accommodations Particular to Parts of the Naturalization Examination
- i. English and/or Civics Exams

To qualify for an N-648 waiver of the English and/or civics tests due to disability, applicants must be unable to learn or demonstrate knowledge. There are applicants, however, whose disabilities do not render them *unable* to learn or demonstrate knowledge, but which make it extremely *difficult* to learn or demonstrate knowledge. Such applicants cannot receive waivers of the English and/or civics requirements, but are eligible under the Rehabilitation Act for an accommodation that will give them an opportunity to fulfill these requirements. The following are some accommodations that may be made to the English and/or civics tests.

- **Questions in plain language.** When necessary, examiners should ask applicants questions during the English and civics tests in simplified language and should speak slowly and clearly.
- **Written tests for people who have hearing difficulties.** If an applicant cannot take either or both tests orally, he or she must be allowed to take the test in written form.

- **Tests in large print or oral questions for applicants with vision impairments.** If an applicant cannot take either or both tests in regular written form, examiners should provide him or her with a version in large print (at least 14 point type). Alternatively, examiners can administer the tests orally.

Note: In some cases, applicants with physical impairments such as vision or hearing loss may be unable to take the English and/or civics exams (even with an accommodation) and will have filed an N-648 form. In such cases, the DAO should first make a determination on the N-648. See Policy Memo 47 dated April 7, 1999: Section 312 Disability Naturalization Adjudications

ii. Examination of Applications - Third Party Testimony

Field offices conduct examinations to verify the information on the application for naturalization and to make determinations regarding the applicant's eligibility to be admitted to citizenship. The INS received a legal opinion concerning whether the Service can accept third party testimony in lieu of the applicant's testimony as to her or his eligibility for naturalization. The Service is reviewing the legal opinion and will publish regulations detailing the parameters of this practice at a later date.

3. *Oath of Allegiance*

A disability or medical condition may make it difficult for some applicants to take the Oath of Allegiance at the traditional oath ceremony. If the applicant is not eligible for a waiver of the oath, the following are some accommodations that may be made to the oath process:

- **Expedited oath.** If possible, field offices should provide an expedited administrative naturalization (i.e., an expedited oath) for an applicant who, because of a physical or mental impairment, is unable to attend the judicial oath ceremony.
- **Nonverbal assent.** Examiners should accept any predetermined nonverbal form of assent when administering the oath, including blinking, nodding and tapping.
- **Sign language interpreter.** If the court in which the oath ceremony is taking place does not provide a sign language interpreter, the INS should provide an applicant with a hearing impairment with a linguistically-matched sign language interpreter to sign the oath, or permit the applicant to use his or her own interpreter. Applicants must request such interpreter prior to the oath ceremony.

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· **Modifications to demonstrate assent to oath.** When necessary, INS should determine whether the applicant has assented to the oath by asking questions in simplified language and by speaking slowly and clearly. DAOs must determine that an applicant: (1) understands that he or she is becoming a U.S. citizen; (2) is forswearing allegiance to his or her country of nationality; and (3) is personally and voluntarily agreeing to a change in status to that of a U.S. citizen. In determining whether assent has been given, a DAO should simplify questions to allow for “yes” or “no” answers to determine whether the applicant understands the requirements for the oath of allegiance.⁸

⁸ See Policy Memorandum No 47 on Section 312 Disability Naturalization Adjudications, issued on April 7, 1999.