

IMMIGRANTS WITH DISABILITIES AND CITIZENSHIP

Source:

PAI's Revised Edition January 19, 2000

CONTENTS

- * What are the basic rules to become citizens
- * Steps to citizenship
- * How to apply to become citizen?
- * If I think I cannot pass the English and Civic tests, how do I ask for a waiver?
- * I get SSI because I am over 65, I have tried but cannot learn English, can I get a waiver?
- * Can I become a citizen if I have a psychiatric disability or I have a conservator?
- * What accommodations should I ask for the INS interview?
- * How can I get a home interview or home oath ceremony?
- * Can I take the oath of allegiance if I have a disability?
- * What should I do if INS denies my request for accommodation at the interview?
- * What should I do if INS denies my request for a disability waiver?
- * What should I do if INS denies my application to be a citizen?
- * Should I apply to naturalize on my own or should I pay a lawyer or a voluntary, non-profit community agency to help me?
- * If I don't become citizen before August 1997, will my SSI be cut off? What should I do?
- * Attachments

HOW IMMIGRANTS WITH DISABILITIES CAN BECOME CITIZENS

WHAT ARE THE BASIC RULES TO BECOME A CITIZEN?

You apply to become a citizen (naturalize) if:

- ★ you have been a lawful permanent resident (have a “green card”)for five years; or you have been a lawful permanent resident for three years, have been married to one U.S. citizen for three years or more, **and** continue to be married to that U.S. citizen (*if you had refugee or asylee status, you do not need the full 5 years of being permanent resident, see a naturalization expert*); or
- ★ you are the lawful permanent resident child of the United States citizen parents; or
- ★ you have served in the military for a certain number of years.
- ★ Have good character. (*This means not having certain problems with the police or other authorities.*)
- ★ Be able to speak, read and write English at a basic level. (*There are exceptions for older people. You do **not** have to know English if: 1) you are 55 years or older, and have had a green card for 15 years, or 2) you are 50 years or older and have had a green card for 20 years.*)
- ★ To be able to pass a test on U.S. History and Government.
- ★ Not have left the U.S. for long periods of time in the last five years.
- ★ Swear that you are loyal to the United States.
- ★ If you have a mental or physical disability that make you unable to learn English or pass the U.S. History and Civics exams, you can apply for a waiver. *Get help from an expert on naturalization.*

You have to be at least 18 to naturalize. Children under 18 may

Citizenship

automatically become citizens when at least one parent naturalizes. If the child does not qualify automatically, the U.S. parent citizen can apply for citizenship for the child. You also have to be a resident of the state and INS district where you have applied for at least 3 months prior to your naturalization interview. Even if you meet these requirements, you **may** have problems becoming a citizen if you have been arrested or convicted of a crime, have lived outside the United States for 6 months or more after you become a lawful permanent resident, do not have “good moral character” for reasons such as non-payment of child support, have been part of a communist organization or if there is any reason for INS to question what you said when you applied to become a legal permanent resident (fraud). None of these factors are absolute, so you must talk to an immigration specialist about what to do.

I. STEPS TO CITIZENSHIP

I. Naturalization Process

1. Complete and submit N-400 application
1. Don't forget to make a copy and start your own file
2. Study for the U.S. History exam
3. Check to see if you meet one of the waivers
4. Check the “Red Flags to Naturalization”
5. Citizenship interview
6. Ceremony
7. Register to vote
8. VOTE

II. Interview preparation with the INS

1. Study and review your application (you won't be allowed to read it during the interview)
2. Practice for your interview
3. Study and review 100 U.S. History questions
4. Gather all necessary documents.

III. What to bring to the interview

1. Your passport, if you have one
2. A piece of photo identification

Citizenship

3. Marriage certificate, if you have one
4. Divorce certificate (if applicable)
5. Proof of child support, if ordered by a court to pay
6. Your Selective Service number (if applicable)
7. Your receipt of your ETS/CASAS exam if you have already taken it.

IV. Naturalization Ceremony

1. Bring your scheduling notice to the ceremony
2. Completely fill out the notice and sign your scheduling notice
3. Exchange your alien registration card for your certificate of naturalization
4. Take the oath of allegiance
5. REGISTER TO VOTE IN THE VOTER REGISTRATION TABLES IN THE AUDITORIUM.

HOW TO APPLY TO BECOME A CITIZEN?

You start the process of becoming a citizen by filing out INS form N-400 and submitting this form to the nearest INS office with three recent photographs, a set of fingerprints and a copy of your alien registration card.

You will also have to pay \$95 application fee when you file your N-400. If you cannot afford to pay the fee because you are on SSI, you can request a fee waiver; not every INS District has agree to waive the application fee, but it is still worth asking.

A. I cannot Pass The English and Civic Tests. What Should I Do?

To pass the English test, you have to read, write, speak and understand English at about a second grade education level. You can show that you can read and write English by taking and passing a standardized test at a certified INS testing center. Even if you have a certificate, the INS officer will ask you questions in English during your INS interview to see if you can speak English. The U.S. civic questions will be taken from a list of 100 sample questions. There is also a standardized test you can take for this requirement.

If you cannot pass these tests, you should ask for a waiver of the testing requirements when you file your N-400 naturalization application. If you get the waiver, you can become a citizen without having to pass the tests. There are two waivers - one for seniors and the other for people with disabilities.

Citizenship

Look at the next section for an explanation of how get these waivers. One of the questions on the N-400 is whether you can speak, read and write English. If you cannot learn English because of your disability, you should answer this question “no,” write down “**disability waiver**” or “**senior waiver**” next to it and apply for a waiver of the English test.

B. What If I Cannot Sign My Name On The Application Form Because Of My Disability?

If you cannot sign your name, make a mark on the signature line, have a witness write your name next to your mark and then his or her own name as “witness.” You must also attach a statement from **two** witnesses that they saw you make your mark on the application form.

C. How Can I Get Help Applying To Naturalize, Since I Can't Leave My Home To Get Photographed And Fingerprinted?

At present, INS does not help people with their application. Some community non-profit agencies have portable fingerprinting and photography services for their clients; contact the hotlines listed in *Attachment 3* If you cannot find anyone to help you and your disability prevents you from preparing your application, we think that INS **should** help you with your application. You can file a discrimination complaint against INS based on their refusal to assist you. See *Attachment 8* for Section 504 complaint forms.

D. When Will I Hear Back From INS About My Application?

You should submit a stamped self-addressed envelop and INS will send you back a receipt for your application and/or fee. Four to nine months after you turn in your N-400 application form, you should get a letter from INS with the date of your INS examination interview. (If you have not heard from INS after 6 months, you should visit the INS office and bring a copy of your alien registration card and the notice of action INS sent you as a receipt for your application, so INS can do a computer search for your application.)

Next, as we discuss below, you will need to:

- Pass the English and civic tests or apply for a waiver;

Citizenship

- Have an interview examination with an INS officer; and
- Take the oath of allegiance.

3. IF I THINK I CANNOT PASS THE ENGLISH AND CIVIC TESTS, HOW DO I ASK FOR A WAIVER?

You can get a waiver of the tests if you have a physical or developmental disability or mental impairment that prevents you from passing the English and/or civic tests. The disability or impairment must be expected to last more than 12 months, and must not be a result of illegal drug use. INS issued final regulations about the disability waiver on March 1997. For the new INS instructions call PAI at 1-800-776-5746 for a copy of "*INS Questions and Answers About The Disability Waiver, INS Fact Sheet About The New Disability Waiver Regulations*"

The new rules to get a waiver are better and broader than the standards INS had used before. INS now recognizes that the waiver may be granted based on a "combination of impairments" which, take on their own, might not be sufficiently severe to qualify for disability exemption. For example, depression alone might not prevent someone from learning English, but combined with partial hearing loss may make it impossible for someone to learn. The doctor should be sure to explain how the combination of problems affects the applicant. INS has also said that it will grant a waiver if you cannot pass the tests because of the results of treatment you are receiving for an illness or disability, for example, if medication your doctor has prescribed for you makes you too sleepy to concentrate and study.

A. How Do I Prove That I Am Disabled?

To get a disability waiver, you will need to have your doctor, psychiatrist or clinical psychologist fill out an INS medical certification form, called Form N-648. **You do not have to have an INS designated Civil Surgeon fill out the form.** (INS got rid of that requirements in March 1997 when it issued final regulations about the disability waiver.) Your doctor needs to explain that you cannot meet either the English or the U.S. civic tests.

For a packet of instructions for your doctor call PAI at 1-800-776-5746

Citizenship

for their *“INS Supplemental Information For Doctors And Psychologists INS Instructions Form for Form N-648 Medical Certification”*. In addition INS has prepared a set of “Questions and Answers” about the disability waiver. To have this “Questions and Answers”, call PAI and ask for their *“INS Questions and Answers About Disability Waiver, INS Fact sheet About The New Disability Waiver Regulations”*. The N-648 must be filed within 6 months of when it is completed and signed.

Beginning in March 1997, INS wants everyone to submit their doctor’s medical certification on the N-648 form they first file their citizenship application on the N-400 form. However, it may cause a great delay for many applicants -- particularly those faced with loss of their SSI benefits in August 1997 -- to get and pay for doctor’s appointments to fill out the N-648 before they can even submit their naturalization applications. We think that INS should let you turn in a cover letter with the N-400 saying that you need a disability waiver and will submit the medical certification later, so that your application is not delayed. Once you get your N-648 medical certification **do not mail** the original of the medical certification to the INS separate from the N-400 form or INS will lose it. You can mail a **copy** to the INS and asked that it be put in your file, and then bring the original to the naturalization interview.

The most important question on the medical certification form is Question 3, which asks the doctor to explain the connection between the applicant’s disability and why he or she cannot learn English and memorizes the answers to the U.S. Civic questions. Your doctor needs to describe your symptoms and compare them to what is required to pass the tests. PAI has included examples of answers to this question in their cover letter for doctors *“Instructions to Doctors for Waiver Preparing Form N-648 Medical Certification”*. Call PAI if you want a copy of this cover letter. INS describes the test requirements to this question in a five-page handout for doctors. Call and ask PAI for their *“INS Supplemental Information for Doctors and Psychologists INS Instructions for Form N-648 Medical Certification.”*

Your doctor will also have to explain why he or she qualified to diagnosis your disability. Your doctor does not have to be a specialist as long as he/she is familiar with your disability. For example, your doctor can say; “ I am a medical professional who has treated people with disabilities. I am familiar with the symptoms of mental retardation (or schizophrenia, etc.) “

B. What Mental Impairments Qualify For The Waiver?

You can get a waiver if you have a mental impairment that results in psychological abnormalities that can be shown by accepted clinical diagnostic techniques. (These include interviews where the person reports their symptoms as well as testing, etc.) Mental impairments developmental, cognitive and learning disabilities, mental retardation and a wide range of psychiatric conditions. The doctor or psychologist must identify the condition with a diagnostic code from the “Diagnostic Manual of Mental Disorders, Fourth Edition,” known as the DSM IV.

Many people who do not have major psychiatric or developmental disabilities may still have a mental impairment which prevents them from learning English. Depression is one example. The DSM IV describes the symptoms of a major depressive episode (DSM IV Code 296. XX) as including “fatigue and a diminished ability to think or concentrate.” In combination, these symptoms may prevent the applicant from learning a new language. Another DSM IV category is “amnesic disorders,” a category of memory impairments (DSM IV Code 294.0, 2906.8 or 296.9) which affect the ability to learn new information and represents a decline in the individual’s previous level of functioning.

If your doctor is unfamiliar with the DSM IV, contact PAI and ask for our testing packet, which provides some simple clinical tests that a doctor can do to diagnose a mental impairment.

C. Should My Doctor Also Explain That I Am Competent To Take The Oath Of Allegiance?

As we discuss below, some people who qualify for the disability waiver may still be denied citizenship because INS thinks they are “too” disabled to take the oath of allegiance. It is a good idea to get a separate letter from your doctor that you are competent to take the oath. The N-648 medical certification form does not ask whether the doctor believes the applicant can take a “meaningful oath of allegiance despite his or her disabilities. Some INS officers have said that doctors should not address the issue of the oath on the medical certification. However, if you already have an appointment with your

doctor, a separate letter from your doctor will be helpful in any later appeal. *See attachment 12 for a sample doctor letter about your competence to take the oath.*

D. What If INS Does Not Accept What My Doctor Says?

If the INS examining officer decides that he/she needs more information about your disability or does not believe what your doctor has said about your disability, the INS examiner must first consult with a supervisor. If the supervisor agrees, the INS examiner may contact the doctor or psychologist who signed the certification by telephone for more information.

If the INS examiner is still not satisfied, he/she can ask you to get a second medical certification from a different doctor. The INS examiner must get approval from his supervisor and document a legitimate basis for his/her reasons in the applicant's file. INS examiners are also encouraged to consult with any federal agency which has determined that the applicant has a disability. When these steps have been taken, the applicant will be given a new N-648 form to be completed by a different doctor or psychologist. The INS will not refer applicants to any specific doctor or psychologist for a second certification.

4. I GET SSI BECAUSE I AM OVER 65, I HAVE TRIED BUT CANNOT LEARN ENGLISH. CAN I GET A WAIVER.

There is an automatic waiver of the English test for older people. If you are over 55 and have been a lawful permanent resident for 15 years or you are over 50 years old and have been a lawful permanent resident for 20 years or more, you do not have to take the English test. (INS calls these the 50/20 and 55/15 rules.) You will need to provide proof of your age and how long you have been a lawful permanent resident to qualify. You do not need a medical certification to get this waiver, but you will still have to pass the U.S. civic test.

There is an easier civics test for applicant who are over age 65 and have been lawful permanent residents for more than 20 years. Many elderly people have mental impairments which are not disabling, in the sense that they continue to function independently in their familiar life activities, but which prevent them from learning English or Civics. For example, elderly immigrants may often experience recurrent depression due to separation from love ones.,

poor physical health, etc. As we discussed in the previous section, severe depression is a mental impairment that may make it impossible for someone to learn English.

5. CAN I BECOME A CITIZEN IF I HAVE A PSYCHIATRIC DISABILITY OR IF I HAVE A CONSERVATOR?

INS has a rule that you can only become a citizen if you are “legally competent” at the time of your interview. Even if you have been involuntarily committed to a mental hospital or if you have a conservator because you have a psychiatric disability (another term is “mental illness”), you may still be “legally competent” to naturalize. The important question is whether you are able to form the intent to become a citizen now and are doing so voluntarily.

Question 13 on the N-400 application form asks: “Have you ever been declared legally incompetent or have you ever been confined in a mental institution?” **It is very important to answer this question truthfully.** (You will not be denied naturalization if you say yes, but you could be denied if you don’t tell the truth.) If you say yes, INS will ask you questions during your interview to see if you are legally competent now. If you are hospitalized at a mental hospital in the past, INS may want proof that you are “better” now. Try to get a letter from your doctor (or your conservator if you have one), explaining you have not found to be incompetent and have the ability to decide whether you want to be a citizen, even though you were once involuntarily committed. *See attachment for a sample letter you can show your doctor or conservator.*

You can also naturalize even if you still have a conservator, since having a conservator is not the same as being legally incompetent for all purposes. If you have a conservator, you can be competent to naturalize and swear allegiance to the United States. California law is very clear that conservators only have the powers given them by law. For matters which are not expressly covered by the conservatorship, there is a strong presumption in California law that you are still competent to make your own decision. For example, your conservator may have the authority to decide about your money or where you live. But your conservator cannot decide whether you love the United States

and are loyal to our government. Those are preferences and beliefs that you have even if you have a conservator and where you are presumed to be competent to make your own decisions.

6. WHAT ACCOMMODATIONS SHOULD I ASK FOR THE INS INTERVIEW?

Before you go to naturalization interview, you need to write to INS and explain what accommodations you will need at your interview, based on your disability. *See attachment for two sample request letters.* Send a letter to the District Director of your INS district or to the Deputy in charge of Naturalization in your district. You may also want to send a copy to your Congressman. You should send a request letter to INS **as soon as you decide what accommodations you will need.** Keep a copy for your own files and make an extra copy to bring with you to your actual interview.

Accommodations are ways that the interview can be changed from its regular format while still accomplishing what the interview is supposed to accomplish. In the regular INS examination, the applicant goes by himself or herself into a room at a federal building or off-site processing center. The INS officer asks a series of questions. The purpose of the questions is to find out if everything in the N-400 is true, if there is some other reason that the person should not be a citizen, if the person is legally competent, and finally, if the person loves the United States, believes in our government and wants to be a citizen of the United States and not the country she or he was born.

Some accommodations that you, or other immigrants with disabilities, can ask for are:

1. having a parent, friend or social worker come into the interview with you as your assistant (and interpreter if you need one).
2. having the INS officer tell your assistant the questions he or she wants asked and letting your assistant ask you the questions in front of the INS officer. This may include having your assistant explain to the INS officer what your answers mean, in case you are not verbal and respond by eye pointing, blinking, or other signals the INS officer may not understand.

{SEQ a,_b,_c, * alphabetic \n}. having your assistant confirm under oath that the

Citizenship

information on the N-400 application form is correct, if you are not able to remember or explain these facts and your assistant has direct knowledge that they are true.

3. asking you questions, or allowing your assistant to ask you questions about your attachment to the United States and our government in a way that you understand. Possible questions could be whether you want to be like others in your family who are citizens, if you love your country, or if you remember the country where you were born and want to go back there to live forever. *See attachment 7 for an example of interview questions for an applicant with a developmental disability.*
4. having Braille or sign language interpreters available.
5. having the INS interview in your home or at a nearby, accessible location, if your doctor provides a letter that is medically necessary. *See attachment 11 for a sample letter from your doctor - you do not need a letter from a Designated Civil Surgeon)*
6. allowing you to take a break in the interview before continuing with questioning, or allowing you to swear or make sounds if you have Tourette's syndrome or another, similar psychiatric disability.

Although no formal medical certification is required, some INS offices may prefer that the request for special accommodations be accompanied by a letter from the applicant's treating physician stating why the requested accommodation is necessary and how it is related to the applicant's disability. For example, the San Francisco INS office asks that applicants submit a supporting letter from a doctor. If the need for accommodation is obvious, we think that getting a medical letter is burdensome and unnecessary.

7. HOW CAN I GET A HOME INTERVIEW OR HOME OATH CEREMONY?

Applicants whose disabilities prevent them from traveling to the INS office may request that they be interviewed at the site away from the INS, like their home or a senior facility. If the INS determines that the applicant has a disability that is serious enough to prevent him/her from appearing at the INS for his/her interview, the INS **must** conduct the interview at a place where the applicant can appear. (8 C.F.R. & sect; 334.4.) In comments to the disability waiver rules in March, 1997, INS said that "it is the common practice of all Service office to conduct naturalization interview and to administer the oath of allegiance outside the local Service office in instances where the applicant is either home-bound or confined to a

medical facility.”

Final rule, 8 C.F.R. & sect; 312, Federal Register Vol.62, No. 53, 12919. See *attachment 10 for a sample request letters for a home interview*. Some INS offices regularly send examiners to senior or other care homes to conduct “off-site interviews” at one central site in the community which may be more accessible to some disabled or ill applicants.

You should also ask INS to let you take the oath of allegiance at home at the same time as your home interview, assuming you are approved.

If your INS office refuses to schedule a home interview or home oath, or if they say you will have to wait much longer than non-disabled applicants, you should file a discrimination complaint (see *attachments 8 and 9*) and call PAI or another legal office for advice.

8. CAN I TAKE THE OATH OF ALLEGIANCE IF I HAVE A DISABILITY?

Even if your disability prevents you from passing the English and Civics tests, you still have to show that you understand and are willing to take the oath of allegiance. The new INS rules are helpful. “[A]n applicant with a disability need not understand every word of the oath at the interview . . . INS officers will explain the oath in simplified term.” At a minimum, the applicant will have to show the INS examiner that he/she understands that he/she is becoming a U.S. citizen, gives up her allegiance to his/her former country and is doing so voluntarily. “Officers can accept a wide variety of signals from an applicant, that he/she understands the nature of the oath, including but not limited to a simple head nod, eye blinking, or other signals specific to the individual that clearly mean “yes” or “no.” (See *attachment 7 INS Q&A*)

Some people with severe disabilities may not be able to communicate, even by blinking. At present, INS will not let a family member, conservator or guardian take the oath as a “proxy” or “surrogate” for an applicant. (See *attachment 7 INS Q&A*). Even if you cannot communicate, you should apply for naturalization anyway. Some of the proposals in Congress will help people who are trying to naturalize and INS may change its rule about the oath in the future.

INS might also make exception for people who expressed their desire

Citizenship

to be a citizen at an earlier time but cannot do so now. For example, people with a progressive disease such as Alzheimer or people with a recent head trauma may have once told family members or others that they wanted to naturalize. Family can provide evidence of this intent, since the applicant can not communicate now. Since this is not a case where the family member is acting as a “proxy”, INS should be asked to permit the oath in these cases.

9. WHAT SHOULD I DO IF INS DENIES MY REQUEST FOR ACCOMMODATIONS AT THE INTERVIEW?

What if you ask INS to let a friend or relative help you in the interview and the INS officer refuses? First, ask to speak to a supervisor right away and explain why you need this accommodation. If the INS examining officer still refuses to grant you the accommodation, you can go forward with the interview under protest. You may be able to pass even without the accommodations you requested. If you don't pass, you can appeal. (See next section.) Your first appeal is to an INS adjudications officer, and must be made within 30 days of the written denial.

You should also file an administrative complaint against the INS for discrimination based on disability. (*See attachment for a sample of complaint forms.*)

10. WHAT SHOULD I DO IF INS DENIES MY REQUEST FOR A DISABILITY WAIVER?

Although the INS is considering making a separate appeals procedure for denials of requests for disability exceptions, the current procedure is for applicants to follow the regular naturalization appeals process. This process is set out in the INS regulations, 8 C.F.R. & sect; 335.3(b), § 336.1, § 336.2, § 336.9.

1. An applicant whose request for an exception is denied may choose to be tested on English and U.S. history and government, or may instead appeal the denial.
2. If the applicant chooses to take and fails the English and civics tests, he/she may automatically rescheduled for a second interview.
3. If the applicant fails the test in her second interview, he/she will be notified that the INS plans to deny her application, and will be instructed about how to file an appeal.
4. An applicant can appeal the denial by requesting, within 30 days, a hearing

Citizenship

on the denial (a new interview) with a different officer. The new interview will be held within 180 days of the date the appeal is filed.

5. If the denial is upheld, the applicant can appeal the decision to federal district court, which will re-hear the applicant's case.

An applicant can always submit a new application for naturalization. However, the applicant will have to wait the standard waiting time for an interview, except in emergency case.

11. WHAT SHOULD I DO IF INS DENIES MY APPLICATION TO BE A CITIZEN?

First make sure that your application is actually being denied. Sometimes INS will just "defer" or continue your application until you get the right certification to qualify for a disability waiver (*see attachment "Example of a federal notice."*) INS also says that it will hold or defer applications from people its think cannot take an oath. (*See Attachment INS. Q.& A.*) If INS does not approve or deny your application, within 120 of your interview, you can treat this as a denial and appeal.

If you have actually been denied or have waited more than 120 days after the interview, you should get legal help right away. Many legal groups are willing to help. Because most immigrants with disabilities have not tried to naturalize before, many of these questions are new. INS may not agree with some of the answers or suggestions in this manual. You can call Protection and Advocacy at 1-800-776-5746 for help.

12. SHOULD I APPLY TO NATURALIZE ON MY OWN OR SHOULD I PAY A LAWYER OR A VOLUNTARY, NON-PROFIT COMMUNITY AGENCY TO HELP ME?

Many people do not need to hire a lawyer to help them naturalize. But you should talk to a lawyer if you have been arrested or convicted of a crime, have lived outside the United States after you become a lawful permanent resident, have not paid child support, have been part of a communist organization and where there may be questions of fraud when you applied to be a legal permanent resident. (*Call PAI and ask for their "Red Flag" issues.*)

Many of the voluntary agencies are certified for outreach sites, which means that INS examining officers will come out to the agency's office for interview. (This is often less frightening than having to go to a federal office for the examination interview.) However, most of these groups are set up to work with masses of people in large classes. Some have never worked with immigrants

Citizenship

with disabilities and cannot offer the individual assistance these immigrants will need. If you decide to work with a voluntary agency, ask them in advance if they have experience with immigrants with disabilities and if they have ever applied for disability waiver. If they have not, try another agency.

You can also file for naturalization with the help of a case worker, friend or family member. File your Form N-400 at the nearest INS office and ask the person who is assisting you to come to the interview with you.

13. IF I DON'T BECOME CITIZEN BEFORE AUGUST 1997, WILL MY SSI BE CUT OFF? WHAT SHOULD I DO?

The new Welfare Reform law says that you will be cut off SSI by August 1997 unless you are a citizen or fit into one of the exceptions for immigrants who will be able to stay on SSI. If you have applied to naturalize but haven't yet gotten your certificate of citizenship, Social Security will still send you a cut off notice in June or July of 1997.

If you are not yet a citizen when you get your SSI cut-off notice, **FILE AN APPEAL WITH SOCIAL SECURITY WITHIN 10 DAYS** and your SSI benefits will continue, at least through the first stage of your appeal, called reconsideration. (Social Security gives you an extra 5 days for mailing the notice, so you have 15 days from the date on the cut-off notice.) Call and ask PAI to send you their "**SSI Appeals For Non-Citizens**," which explain how to appeal. You can also ask PAI to send you their "SSI Advocate's Reference Packet For Non-Citizens," which has more details about SSI appeals, the exceptions and what you can do.

Finally, you can ask INS to speed up, or "expedite" your naturalization application. INS has said that they will only do this for people who have a serious illness or other life-threatening problems, and not for people who are losing their SSI. We think that losing your SSI **can** be life-threatening if you will be evicted, won't be able to eat, etc., and that applicants should go ahead and ask for "expedited adjudication" based on their individual situation.

Attachment 1:
Witness Statement When Someone Makes A Mark
*DECLARATION OF WITNESSES WHEN SOMEONE
MAKES A MARK AS THEIR SIGNATURE*

INSTRUCTIONS TO WITNESSES: California Code of Civil Procedure § 17 provides that "signature or subscription includes mark, when the person cannot write, his name being written near it by a person who writes his own name as a witness; provided, that when a signature is by mark it must, in order that the same may be acknowledged or may serve as the signature to any sworn statement, be witnessed by two persons who must subscribe their own names as witness thereto."

*If a person makes the mark on a document, one witness must write the **person's** name on the document next to the mark and then write his or her own name with the word "witness" next to it. Then this witness and a second witness must both sign this form and attach it to the document.*

PROOF OF SUBSCRIBING WITNESS # 1

I witnessed (*name of applicant*) _____ makes his mark on the following document: _____, which is attached to this declaration.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on (*date*): _____ at (*place*): _____, California.

Type or print witness' name and address:

(*Signature of witness*)

PROOF OF SUBSCRIBING WITNESS # 2

I witnessed (*name of applicant*): _____ makes his mark on the following document: _____, which is attached to this declaration.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on (*date*): _____ at (*place*): _____, California.

Citizenship

Type or print witness' name and address: _____
(Signature of witness)

Attachment 2:
List of INS Offices in California:

California INS Offices

Los Angeles District Office District Director: Richard K. Rogers

District Director (acting): Donald B. Looney

300 North Los Angeles Street

Los Angeles, CA 90012

Tel: (323) 526-7647

8:00 a.m. - 4:30 p.m. (Monday - Friday)

San Diego District Office District Director: James B. Turnage, Jr.

Deputy District Director: Clifton J. Rogers

880 Front Street, Suite 1234

San Diego, CA 92188

Tel: (619) 557-5570

8:00 a.m. - 4:30 p.m. (Monday - Friday)

San Francisco District Office District Director: Charles Demore

Deputy District Director: Philip L. Waters

630 Sansome Street

San Francisco, CA 94111-2280

Tel: (415) 744-8411

7:45 a.m. - 4:15 p.m.

Fresno Sub-Office Officer in Charge: Don Riding

865 Fulton Mall

Fresno, CA 93721-2816

Tel: (800) 375-5283

7:00 a.m. - 4:30 p.m.

Sacramento Sub-Office Officer in Charge: Lionel Nurse

711 "J" Street

Sacramento, CA 95814

Tel: (916) 498-6480

8:00 a.m. - 3:30 p.m.

San Jose Sub-Office Officer in Charge: (open)

280 S. First Street Room 1150, San Jose, CA 95113

Tel: (800) 375-5283

7:30 a.m. - 4:30 p.m.

Attachment 3:

Additional Resources for Citizenship & Naturalization (hotline/ information numbers)

<p>Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA) 1521 Wilshire Blvd Los Angeles, CA 90017 (213) 353-1333 (213) 353- 1344 (Fax)</p> <p>Contact: Immigration Citizenship Coordinator</p> <p>http://www.grassroots.org/usa/chirla.shtml</p>	<p>CHIRLA is completing a Southern California directory of citizenship and naturalization services. It will be available to the public; and will contain specific information on services and classes offered by various agencies and programs in Southern California</p> <p>Legal service agencies and CHIRLA member agencies (providers) may call the Immigration Citizenship Coordinator with specific questions relating to naturalization.</p>
<p>National Association of Latino Elected and Appointed Officials (NALEO)</p> <p>5800 S. Eastern Ave # 365 Los Angeles, CA 90040</p> <p>1-800-346-2536 national 1-800-346-2536 S. California</p> <p>http://www.naleo.org</p>	<p>NALEO's toll-free information line 800-3462346 provides naturalization information to residents of South California on the process of becoming a U.S. citizen. Referrals to programs which provide citizenship classes, ESL classes and other services are also available</p> <p>NALEO provides weekly naturalization workshops in different cities throughout Southern California. Information on these workshops is available through the hotline. For a fee of \$30, applicants who attend the workshops receive help with forms, pictures, and fingerprints. NALEO will submit the completed forms to the INS, but does not provide legal assistance.</p>
<p>Northern California Coalition for Immigrant Rights</p>	<p>NCCIR's information hotline provides information on naturalization</p>

Citizenship

<p>995 Market Street, 11th Floor San Francisco, CA 94103 (415) 243-8215 (415) 543-6767 (Spanish/English) (415) 543-6769 (Mandarin/Cantonese) (415) 243-8628 http://www.nccir.org</p>	<p>services throughout Northern California, including listings for citizenship classes, ESL classes, and citizenship workshops.</p> <p>NCCIR also coordinates a citizenship task force for citizenship service providers and citizenship/naturalization workshop leaders in Northern California</p>
---	---

Citizenship

Attachment 4:
Sample Application for Fee Waiver

U.S. DEPARTMENT OF JUSTICE Immigration & Naturalization Service
Application for Fee Waiver

I _____ A# _____ am requesting a Fee Waiver for the attached application, petition, or motion as provided by Title 8CFR 103.7. I do not have sufficient funds to pay the fee, even though I believe I am entitled to the benefit.

I cannot pay the fee because:

I declare under penalty of perjury that my monthly income is \$ _____ and I have _____ dependents.

Signature _____ Date: _____
Requester

(DO NOT WRITE UNDER THIS LINE)

ACTION BY INS ONLY (VERIFY ALIEN'S STATUS & INDICATE BELOW)

REQUEST: SIGNATURE: _____ DATE: _____

APPROVE IMMIGRATION OFFICER

DISAPPROVE

IN ACCORDANCE WITH 8 CFR 103.7

Attachment 5:
Applicant's Request for Accommodations at INS interview
(applicant may fill in blanks and send in)

To: District Director, Immigration and Naturalization Service
Address: _____

From: _____
(Print Applicant's name)
Address: _____

Telephone number: _____

Alien Registration Number: _____

Re: ACCOMMODATIONS FOR MY DISABILITY AT MY INS NATURALIZATION
INTERVIEW SCHEDULED FOR _____

I have the following disability: _____

(Circle one) I am / am not requesting a waiver of the testing requirements
based on my disability.

Because of my disability, it is hard for me to:

Please make the following accommodations for me at my INS interview:

Signature: _____ Date: _____

Attachment 6:

Sample letter from advocate to ask for accommodations at INS interview

(Date)

Section Chief, Citizenship
Immigration and Naturalization Service
(Local District Office)

Re: *(Applicant's name, Alien Registration Number)*

Dear ,

I am representing _____ concerning his application for naturalization. I will be accompanying him to his naturalization interview on _____. I will submit a G-28 Form at that time.

My client _____ has a developmental disability. Because of his disability, he is very shy and has difficulty dealing with strangers. As a result, he may not respond to questions from a strange federal official and will pretend that he does understand or hear the questions asked of him. He will not understand questions framed in an abstract manner, but does understand concrete issues, such as whether he wishes to remain in the United States or return to his country of birth. Although he has a low IQ due to his developmental disability, he is aware, responsive and has significant skills. In fact, he works for a company. Section 504 of the Rehabilitation Act requires all federal agencies to make appropriate accommodations to person with disabilities in order that they may benefit from the programs and services offered. I request the following accommodations for my client in his interview:

1. I request that I be allowed to ask my client the question that the examining officer wishes to have asked. After the examiner asks his or her questions, I will re-phrase them and pose them to my client directly.

2. I request that my client be asked questions in a manner which accommodates his disability. It is not appropriate to ask if he knows what it

Citizenship

means to be a citizen or if he knows why he is here. It is appropriate to ask him if he wants to remain in the United States, if he wants to go back to (his country of birth) forever, or if he will do anything to hurt his country. I will be glad to discuss additional questions with the examining officer at the time of the interview.

3. If my client is unable to respond to my question during the INS interview because he is too frightened or shy, I request that his father, _____, be allowed to testify regarding my client's status and intentions. Mr _____ has cared for his son since birth and can testify from first hand knowledge regarding the accuracy of the information on the N-400, the existence of any bars to naturalization and statements regarding his son's desire to be a citizen.

Thank you for your assistance in this matter. I look forward to our interview tomorrow morning.

Sincerely,
(Advocate)

CC: (Clients)
District Director, INS District

Attachment 7:
Sample Questions for an INS Interview with an Applicant with
Developmental Disabilities

INS: How old are you?

Client: (silent)

Advocate: Please ask him yes and no only.

Advocate (to client): Are you 20 years old?

Client: No

Advocate: Are you 37 years old?

Client: Yes.

INS: Do you know what it means to tell the truth?

Client: No

Advocate: Are you a liar?

Client: No

Advocate: Would you tell a lie here?

Client: No

INS: What is your address?

Client: (silent)

Advocate: Do you live with your parents?

Client: Yes.

Advocate: His parents' address is; _____

INS: What is your telephone number?

Client: (silent)

Advocate: His parents' number is _____

INS: Do you know what it means to be a citizen?

Client: (silent)

Advocate: Do you want to be a citizen like your Mom and Dad?

Client: Yes.

Advocate: Do you want to go back to (country of birth) to live?

Client: No

Advocate: Do you want to keep living here with your Mom and Dad?

Client: Yes.

Citizenship

INS (re: duty to bear arms) Do you know what a war is?

Client: No

INS: If there is a war, would you fight for America?

Client: (silent)

Advocate: If your Dad tell you to help America, would you do it?

Client: Yes.

Advocate: Would you do anything to hurt America?

Client: No.

The INS officer also ask some appropriate questions as follows:

INS:(re: existence of criminal arrests) Do you know what a policeman is?

Client: Yes

INS: Have you ever met a policeman in person?

Client: No

INS: Are you a bad person?

Client: No.

Attachment 8:
Sample Discrimination Complaint
for Violation of Section 504

*SECTION 504 COMPLAINT AGAINST IMMIGRATION AND NATURALIZATION SERVICE
FOR DISCRIMINATION ON THE BASIS OF DISABILITY OR FOR FAILURE TO
ACCOMMODATE TO DISABILITY NEEDS.*

Federal agencies including the Immigration and Naturalization Service (INS) are subject to Section 504 of the Rehabilitation Act, 29 U.S.C. § 794. (The American with Disabilities Act does not apply to the federal government.) Section 504 says that federal agencies cannot discriminate against persons with disabilities.

One form of discrimination is the denial of reasonable accommodations that would enable persons with disabilities to participate in a program, service or process. Since the INS is a federal agency, Section 504 requires that it provides reasonable accommodations to the disability needs of people applying for naturalization. For example, Section 504 requires the INS to be accessible to persons who use wheel chairs and walkers, who are blind, deaf or homebound. Section 504 also requires the INS to be accessible to persons with mental or cognitive impairments. This means that when persons have difficulties getting through the naturalization process due to their cognitive or mental impairments, the INS should provide them with the reasonable accommodations they request.

If you believe you have been treated unfairly because of your disability, you have a right to file a Section 504 Civil Rights complaint. Unfair treatment that may violate Section 504 of the Rehabilitation Act include:

- Not providing you with the extra time you need to complete the English, history and civics exams or taking the oath of allegiance.
- You need a sign language interpreter for your meeting with the INS and the INS will not provide an interpreter.

Citizenship

- You cannot get to the INS office for the interview or oath ceremony and the INS will not come to your home or conduct the interview by telephone.
- You go to the INS office for help in understanding a notice you received but you are treated rudely or impatiently when you ask for help even though the INS knows that you have the kind of disability that may interfere with your ability to cooperate or understand.
- The INS does not take into consideration your disability limitations and your petition for a waiver when deciding whether or not you should take the naturalization tests.
- It is difficult for you to express yourself or it is difficult to understand you, but the INS does not take the time to understand what you are trying to say.
- The INS will not provide the naturalization examination at a time and place that is convenient for you and the INS knows that a special time is needed due to your disability.
- You request that a family member, advocate, or social worker be with you at the time of the INS interview or examination, and the INS does not allow it.

HOW TO FILL OUT THE SECTION 504 COMPLAINT FORM

- If you do not have a permanent address, you should use someone's address. After address write "c/o", or "in care of" and then the other person's name and address.
- On the "disability" question, you can identify your disability or impairment either by stating the type of disability or by describing how the disability affects you, or both. For example, you could write in "mental retardation" or "mental retardation which makes it difficult for me to be in a room with strange people without having someone I know be with me." Or you could write in "spinal cord injury" or "paralysis which makes it difficult for me to write."
- On the question "when did the discrimination happen," that is usually the date (month and year) you were treated unfairly, and the location where

Citizenship

it happens. For example, this could be the date of the interview when you were denied a reasonable accommodation or a waiver.'

- On the question, "what happened?", explain why you believe you were treated unfairly because of your disability or impairment. You are not limited to the space provided. Feel free to include additional pages to better explain the incident.

Important: The Section 504 complaint is to be filed **in addition** to regular appeals or request for waivers. That is, the Section 504 is not be filed as substitute to an appeal or an examination waivers. It is very important that you file a request for waivers and request an appeal to any denial immediately.

WHERE TO MAIL THE SECTION 504 COMPLAINT

Mail your Section 504 complaint to the *District Director of the local office of the Immigration and Naturalization Service*. [In San Francisco, mail a copy to *Terry Rice*, Citizenship Branch, U.S. Immigration and Naturalization Service, 630 Sansome Street, San Francisco. (415) 705-3509.] Mail a second copy to *Robert Bach*, *Executive Associate Commissioner, Immigration and Naturalization Service*, 425 "I" Street NW. Room 7100, Washington D.C. 20536. Keep a copy of your Complaint and write on your copy the date you put it in the mail. You should follow up if you do not get something in the mail from the INS within four to six weeks. The telephone number for the citizenship branch is (415) 705-3509. Explain that you filed a Section 504 civil rights complaint against INS so that you are directed to the right person.

Citizenship

Attachment 9:
Complaint Against The Immigration and Naturalization Service
for Violation of Section 504 Because of Discrimination On The Basis Of Disability

Mail _____ to:

District Director, INS District Office
Robert Bach, Executive Associate Commissioner, Immigration and
Naturalization Service, 425 "I" Street, Room 7100, Washington D.C. 20536
Complainant:

(This is the name of the person who was subjected to the discrimination)

Alien Registration Number: _____

Address: _____

Day phone: _____

Evening or message phone: _____

Respondent: *(This is the INS or the Person who you believed committed the
discrimination)*

Is the Complaint being sent by someone other than the person who was
subjected to discrimination? If yes, please fill in below:

Name: _____

Relationship: _____

Address: _____

Day phone: _____

Evening or Message Phone: _____

Disability _____

When _____ did _____ the _____ discrimination
happen? _____

What _____ happened?:

Citizenship

I swear under penalty of perjury that the foregoing is true and correct.
Executed _____(date) in _____(city), California.

Signature

Attachment 11:
Physician Statement - Request for Home Exam/Oath

Example of statement used by naturalization applicant's physician affirming applicant need to take exam and/or oath at home

Date: _____

To Immigration and Naturalization Service

RE: (name of patient/applicant for naturalization):

I am the attending physician for the above-named patient, who I understand is currently applying for U.S. citizenship.

I am writing to affirm all of the following with regard to this patient: I have diagnosed the patient has having (*indicate diagnosed condition*). As a result of this condition the patient is unable to (*describe limitation*). Because of these limitations, the patient is unable to participate in (*indicate the citizenship exam and/or oath of citizenship*), at the usual location(s), and needs to be permitted to carry out these activities at his/her residence.

If you wish to contact me, my phone number is: _____

Yours truly,

(*Name of attending physician*)

This statement needs to accompany the letter sent to INS by the applicant.

Citizenship

Attachment 12:

Sample letter re: legal competence/capacity to take an oath

Instructions to doctor, conservator or case worker, please re-type this letter on your own stationary, adding facts about the person applying for naturalization and give the letter to the applicant to take to his or her INS interview.

To Immigration and Naturalization Service

Date: _____

Re: _____

(Name of applicant for naturalization)

Alien Registration Number: _____

This letter is to inform you about _____, his legal competence and his capacity to take an oath of allegiance.

_____ has been my client/patient/conservatee since _____. He has been diagnosed with _____.

Despite this disability, _____ is capable of expressing his desires and preferences. He can interact in a social setting, and he has many self-care skills. He is capable of forming loyalties and expressing a preference about his citizenship. He expresses love for his country and a desire to become part of the community. To summarize, our records show that _____ has a significant disability and mental impairment severe enough that he is not capable of taking tests in English literacy, U.S. history and government, but he is capable of taking and understanding an oath of allegiance.

If applicable: _____ has never been declared legally incompetent. (Either: He has a conservator who is authorized to make decisions regarding his (estate; the provision of food, clothing; or list areas of limited conservatorship (or) He has a representative payee who handles his SSI payment, but he manages other aspects of his own affairs.)

Respectfully

Doctor/Conservator, Case Worker

Note: *Having a conservator is not the same as being legally incompetent. Even if an individual has a conservator, he or she can be competent to naturalize and swear allegiance to the United States. California law is very clear that conservators only have the powers given them by law. For matters which are not expressly covered by the conservatorship, there is a strong presumption in California law that the individual is still competent to make his or her own decisions.*

Attachment 13:
INS Deferral Notice

U.S. Department of Justice (*Typed copy of form letter*) Immigration and Naturalization Service **INS Office Address** file No _____ Date: _____

TO APPLICANT FOR NATURALIZATION:

Your application has been continued for:

Reexamination ___ history and government; ability to ___ read. ___ write,

___ speak, and/or understand English.

Receipt of verification of your military service or other routine clearance.

Receipt of your immigration file.

Receipt of the following document(s) which you are required to submit at your next interview:

___ Arrest report AND Final Court Disposition for _____

(*Note: Final court disposition must include conviction status, sentencing and probation*)

___ Birth Certificate of: _____

___ Marriage Certificate of: _____

___ Interlocutory and/or final divorce decree of:

(*Note: Final divorce decree must be certified by the court.*)

___ Death Certificate of: _____

___ Adoption decree and/or court order re: Name change:

___ Proof of spousal and/or child support for:

___ Proof of Selective Service Registration. (Call 1-847-688-6888 or 1-947-688-2276)

Note: If you failed to register with the Selective Service System before you reach age 21, you must do the following:

1. Request a QUESTIONNAIRE from the Selective Service, answer it in full, then MAKE A COPY.
2. Return the original to the Selective Service. They will sent you an ADVISORY LETTER.

Citizenship

3. Bring the ADVISORY LETTER and copy of the QUESTIONNAIRE to your next interview.

Verification of tax history

Letter from person(s) you gave your affidavit of support at the time of your lawful entry into the United States.

Letter from Department of Social Services and/or Social Security Administration re: eligibility.

Letter from church as well as your own declaration regarding your beliefs in bearing arms and in non-combatant services in the armed forces of the United States.

Other

Disability Waiver: To establish your eligibility for exemption from the requirement of INS & sect; 312, you must obtain an attestation from a designated civil surgeon (8 C.F.R. Sec.234). The attestation should include a diagnosis and prognosis of your medical condition. Please submit it to the Continuation Unit, Rm ___ at the above address after 30 days from the date of this notice. (See attached listing of civil service surgeons in your area).

NOTE: EACH DOCUMENT SUBMITTED MUST BE AN ORIGINAL OR CERTIFIED COPY. Any foreign language document must be accompanied by a certified English translation.

You will be notified by mail within 120 days as to the date, time and place of your next interview. Please advise this office of any change of address. Your failure to appear for reexamination with the requested document(s) will result in denial of your application.

You will be notified by mail of further action in your case.

_____ District Adjudication Officer