

Discussion Topics for Feb. 9 Meeting of Immigration Law Section with USCIS

1. I would like to continue the discussion regarding unauthorized practice of law, particularly when USCIS suspects that a non-attorney completed an application or gave legal advice and was paid or did not properly sign the form. Completing forms is offering legal advice because it requires questions to be explained and interpreted. Is the local office response that there is not a problem, or that there is a problem but they are powerless to remedy it?
2. I am having an issue with NTA's not containing updated addresses. When an NTA is forwarded to EOIR without a proper address, respondents will not be notified of hearings and are likely ordered removed in absentia unless an attorney is involved (presuming the attorney is properly notified). Could you please emphasize to your staff the importance of keeping this information up to date.
3. Regarding the N-648 Medical Disability Waiver for naturalization applicants: The N-648 asks what tests were performed to assess the person's inability to learn English and/or civics. What type of testing (please provide an example) would be deemed adequate to show that a person who is deaf or blind is unable to learn English? What about someone who suffers from debilitating depression, anxiety, dementia, or Post-Traumatic Stress Disorder? Would a letter from a teacher stating the person took English classes but was unable to make any progress be sufficient to show testing of the disability? I have searched all over Alaska for someone able to do testing for mental health issues and inability to learn English and cannot find anyone. They all say a Forensic Neurologist would be needed, which doesn't exist in Alaska. Do you have suggestions about how to address this lack of resources in Alaska?
4. Regarding the N-648 Medical Disability Waiver for naturalization applicants: Will USCIS consider the fact that someone's SSI (disability) benefits will be cut off if they are not granted citizenship when considering the Form N-648 as a factor in support of granting the waiver?
5. What is the case processing time for the Form N-336 (Hearing on naturalization) from date of filing to date of interview? How soon after an interview can we expect a decision?
6. At an N-336 hearing, if the person has already passed the English and civics exams, can the applicant use an interpreter for all questions? I recently spoke with Ms. Nocerino-Doody about this issue and she stated that yes, an interpreter may be used. I stated this to the interviewing officer at a recent N-336 hearing. There was a 1 ½ hour Q&A and the interviewing officer required the entire hearing to be done in English, stating that a de novo review is permitted. I realize that the person must be able to answer the questions on the N-400 in English, but this type of in depth Q&A requires English skill far beyond what is required to pass the English exam. And since a misunderstanding in the question or the applicant's answer could lead to not only a denial of the N-400 but also the initiation of removal proceedings, it seems unjust to require the applicant to do the entire hearing in English. Please state USCIS' position on this matter and whether officers will be trained on this issue.
7. Has the circuit ride/naturalization schedule been finalized? Can we get a copy?

8. Officers continue to issue requests for evidence for joint financial documents for marriage-based adjustments, which are impossible to get when the applicant does not have a social security card. Can officers be trained on the fact that a person should not be required to get these type of joint financial documents (joint bank statements, credit card bills, car insurance, car title/registration, etc.) until the person has been issued employment authorization and a Social Security card and/or driver's license?
9. One particular officer continues to separate and question individually some (but not all) couples for marriage-based adjustments before the interview has even begun. No other officer does this without first establishing some basis for needing to separate the clients. It seems like there should be some procedural uniformity with cases where there are no issues of inadmissibility or suspicion of marriage fraud. Is there any policy in place which addresses this issue?