



DENYING THE RIGHT TO VOTE



Politicization of the Naturalization Process as a
Novel Form of Voter Suppression



BOUNDLESS

Executive Summary

As of the second week of October, tens of thousands of U.S. residents have already been prevented from becoming U.S. citizens in time to meet their states' respective voter registration deadlines. As a result, most of these would-be voters will be barred from participating in November's upcoming elections. Unless immediate action is taken, as many as **300,000** would-be citizens will be prevented from voting in November due to newly instituted policies that deviate from two decades of regulatory precedent regarding the naturalization of U.S. citizens during presidential election years.

This report provides a summary analysis of the ways that federal officials have consciously sought to politicize the naturalization process during the 2020 election year in what appears to be a novel form of voter suppression. The report also examines the potential impact of this novel form of voter suppression in closely watched states in the upcoming presidential election, and details immediate steps that federal officials can take to mitigate these harms, allowing tens of thousands of additional U.S. residents to become citizens in time to obtain the right to vote.¹

.....



Historically, naturalization has been a bipartisan issue with broad support from civic and government institutions. Article I of the U.S. Constitution provides Congress with exclusive power to establish a "uniform Rule of Naturalization," and under the Immigration and Nationality Act, Congress established a naturalization framework that promotes diversity, family unification, the protection of refugees, and strongly encourages naturalization.

The United States benefits from increased naturalization, because new citizens create economic growth and prosperity. [Research](#) indicates that naturalization confers economic benefits on new citizens which in turn leads to an increase in tax revenues for state and local governments, and the United States Federal Government. Naturalized citizens have average incomes up to [eleven percent higher](#) than immigrants eligible to naturalize that do not become citizens. It is estimated that if just half of all immigrants eligible to naturalize in the United States obtained citizenship it

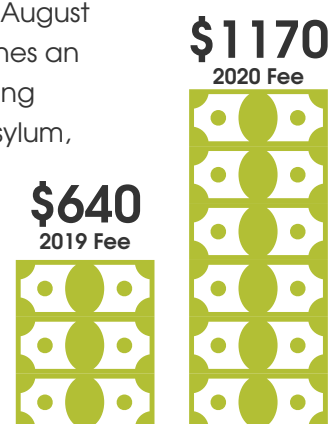
¹ The Immigrant Legal Resource Center does not support or oppose any candidate or party for election to public office. The sole purpose of this report is educate the public about the potential impact of current immigration policies on the integrity of elections in the United States, and to advocate for a change to those policies to protect the integrity of future elections.

would result in as much as [\\$45 billion](#) in additional economic growth over the next ten years. Despite this potential for a boost to the economy, the current administration has instituted policies that have made it harder for immigrants to become citizens.

Since January 2017, United States Citizenship and Immigration Services (USCIS), which manages the naturalization adjudication process, has implemented an aggressive anti-immigration policy agenda extending to all facets of immigration processing. The naturalization of U.S. citizens is no exception, and becoming a U.S. citizen is now more difficult than ever. USCIS has created additional roadblocks in the run-up to the November 2020 federal and state elections, and as a result, hundreds of thousands of would-be citizens will be prevented from voting. The implications of this novel form of voter suppression are far reaching for both USCIS, as well as millions of immigrants and their families.

Under the leadership of Acting-Secretary of the Department of Homeland Security Chad Wolf and Acting-Director of USCIS Ken Cuccinelli, USCIS has seen its 2016 budget surplus of \$800 million transformed into a projected deficit of [more than \\$1 billion](#).² The agency has also added more unnecessary red-tape and managed fewer naturalization approvals than it typically completed from 2009 to 2016. USCIS also removed service to its “customers” from the mission of the agency, and would-be citizens are subjected to unnecessary bureaucratic [policies](#), intense scrutiny, slower processing times and, if USCIS’ new [Fee Rule](#) had not been halted by litigation prior to its effective date of October 2, increased fees. All of these changes are part of USCIS’ new “extreme vetting” policy framework for adjudicating naturalization and other immigration benefits.

The aforementioned Fee Rule was promulgated by USCIS in August 2020 and set to go into effect on October 2, 2020. It establishes an unprecedented hike in application fees for immigrants seeking naturalization, while also imposing unreasonable costs on asylum, green cards, work authorization, and other immigration benefits. Under the Fee Rule, fees for single naturalization applications would increase from **\$640 to \$1170**. This means that a couple with two minor children would need **\$2340** to apply for U.S. citizenship and **\$2000** more for certificates of citizenship for the children.



² According to the New York Times, USCIS leadership announced in May 2020 that it had turned an \$800 billion Obama-era budget surplus into a projected \$1.2 billion deficit.

In addition to raising fees, USCIS' Fee Rule eliminated nearly all fee waivers for low-income immigrants. The result was to put many immigration benefits, asylum, and naturalization out of reach for millions of immigrants. Together, the fee increase and elimination of the fee waiver created the United States' first-ever wealth test for citizenship. The institution of a wealth test would prevent millions of legally eligible immigrants from obtaining the right to vote and fully participating in the American system of democracy.

The Immigrant Legal Resource Center ([ILRC](#)) and many other leading naturalization policy experts have [noted](#) that the combination of unprecedented USCIS fee increases and the revocation of fee waivers disproportionately harms low-income immigrants and their families, especially people of color. USCIS' Fee Rule was placed under [preliminary injunction](#) by the U.S. District Court for the Northern District of California on September 29, 2020 as part of a [lawsuit](#) filed by the ILRC and seven other immigrants' rights organizations.

In addition to the Fee Rule, USCIS has implemented other policies since the onset of the COVID-19 pandemic that have slowed down naturalization applications even further. Instead of expediting applications during an election year, USCIS has implemented a number of [policies](#) that have drastically reduced the agency's adjudication processes. As a result, [Boundless Immigration](#) found that up to 300,000 lawful permanent residents will be prevented from completing their naturalization process in time to vote in the upcoming November elections.

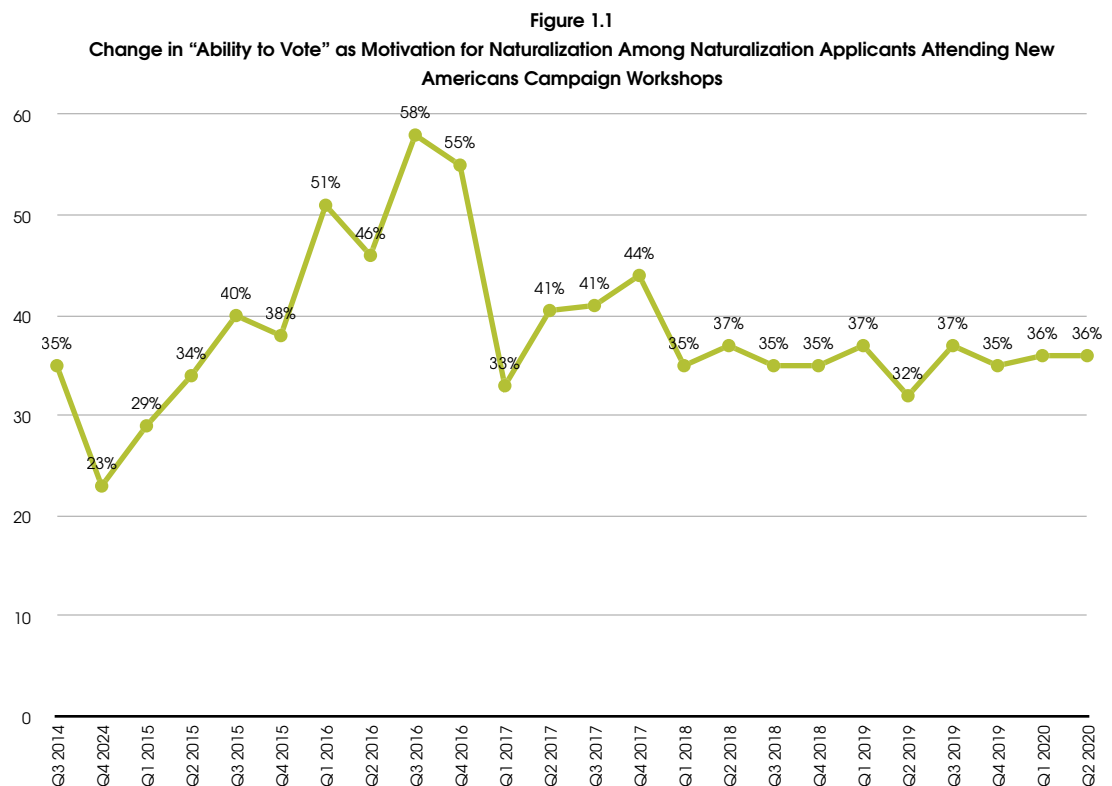
These would-be citizens live in states all around the country and could be denied the opportunity to participate in the upcoming Presidential election. These same would-be voters will also be prevented from casting a ballot in numerous U.S. House and Senate races, as well as state and local races where their participation could be decisive.

According to proprietary data from non-profit naturalization service providers that are members of the [New Americans Campaign](#) (NAC), a non-partisan, national naturalization collaboration led by the ILRC, a large proportion of immigrants seeking to naturalize in Arizona, Florida, North Carolina, Pennsylvania, and Texas cited voting as their primary motivating factor for becoming U.S. citizens in 2020. Securing voting rights is also the leading motivating factor for immigrants seeking to naturalize in 2020, nationally.

To rectify the current situation, USCIS should immediately administer naturalization oaths to every eligible applicant for U.S. citizenship. The administration of oaths should be conducted using all methods, including remote video-conference, telephonic or socially distanced in-person oaths. USCIS should also expedite naturalization interviews and offer same-day naturalization oaths.

New Americans Are Highly Motivated to Vote

Naturalization applications traditionally spike during presidential election years. President George W. Bush and President Barack Obama recognized that these spikes occur because New Americans are motivated by the ability to obtain U.S. Citizenship in time to register to vote. In response, the Bush administration and the Obama administration provided USCIS with additional resources during the presidential election years of 2004, 2008, 2012 and 2016 to ensure that the agency was able to handle an influx of new naturalization applications.



© ILRC 2020 - Source: New Americans Campaign Data

Initial data from the [first quarter of 2020](#) suggested that the U.S. was on pace for a large number of new naturalizations, but the pace has slowed considerably. Currently, there is a backlog of approximately **700,000** pending naturalization applicants.

The NAC, which is led by the ILRC, and is the largest naturalization collaboration in the history of the United States, collects survey data regarding immigrants' motivations to naturalize over time. Through the NAC, the ILRC works with approximately 200 partners in over 20 regions and major metropolitan areas including New York, Miami, Houston, and Los Angeles, and has helped complete naturalization applications for more than 470,000 people.

NAC survey data shows that immigrants seeking to naturalize in 2015 and 2016 were more highly motivated to vote than immigrants seeking to naturalize in the non-presidential election years immediately preceding and succeeding them.

Survey data from July 2019 through June 2020 indicates that the desire to vote was the single greatest motivating factor for naturalization applicants among NAC partners, nationally, with **36 percent** of survey respondents indicating that this was their leading motivating factor for becoming U.S. citizens. Naturalization applicants in several heavily contested presidential election states including North Carolina (**57 percent**), Florida (**53 percent**), and Arizona (**45 percent**) were even more motivated by the ability to vote than the national average.

Figure 1.2

Motivation for Naturalization (Given by NAC Partner Workshop Attendees, 7/19-6/20)	Arizona	Florida	North Carolina	Pennsylvania	Texas	National
Ability to Vote	45%	53%	57%	35%	35%	36%
Better Opportunities and Rights (including Employment)	9%	16%	6%	21%	30%	20%
Belonging and Acceptance	19%	9%	0%	27%	11%	15%
Family Connections	15%	16%	13%	4%	10%	13%
Ability to Travel	0%	1%	4%	5%	4%	4%
Other	12%	5%	19%	9%	11%	11%

The NAC survey data also indicates that large pluralities of naturalization applicants in other closely watched presidential election states including Texas (**35 percent**), and Pennsylvania (**35 percent**), were primarily seeking naturalization in order to secure the right to vote.

Reshaping the Naturalization Process

While [previous administrations](#) reduced naturalization backlogs during presidential election years through targeted backlog reduction policies, USCIS has failed to implement such policies even as average processing times have exploded. Much of this is attributable to the Department of Homeland Security's focus on [changing USCIS](#) from a customer service agency focused on the efficient and expeditious adjudication of immigration benefits into an enforcement agency focused on "extreme vetting."

USCIS' new "extreme vetting" naturalization policy framework is part of a broad [attack on immigration](#), and includes more than [400 executive actions](#), as well as many lesser-known technical adjustments, that have [doubled](#) the naturalization interview time and added unnecessary and inappropriate lines of questioning. For instance, USCIS officials have newly put in place an unnecessary and [onerous standard](#) for adjudicating whether naturalization applicants have the requisite "good moral character" to become citizens. In some instances, USCIS has [requested](#) documentation for minor, decades-old offenses such as unpaid parking tickets or traffic violations. [These policies have](#) slowed down naturalization adjudications, increased red-tape and created skyrocketing naturalization backlogs.



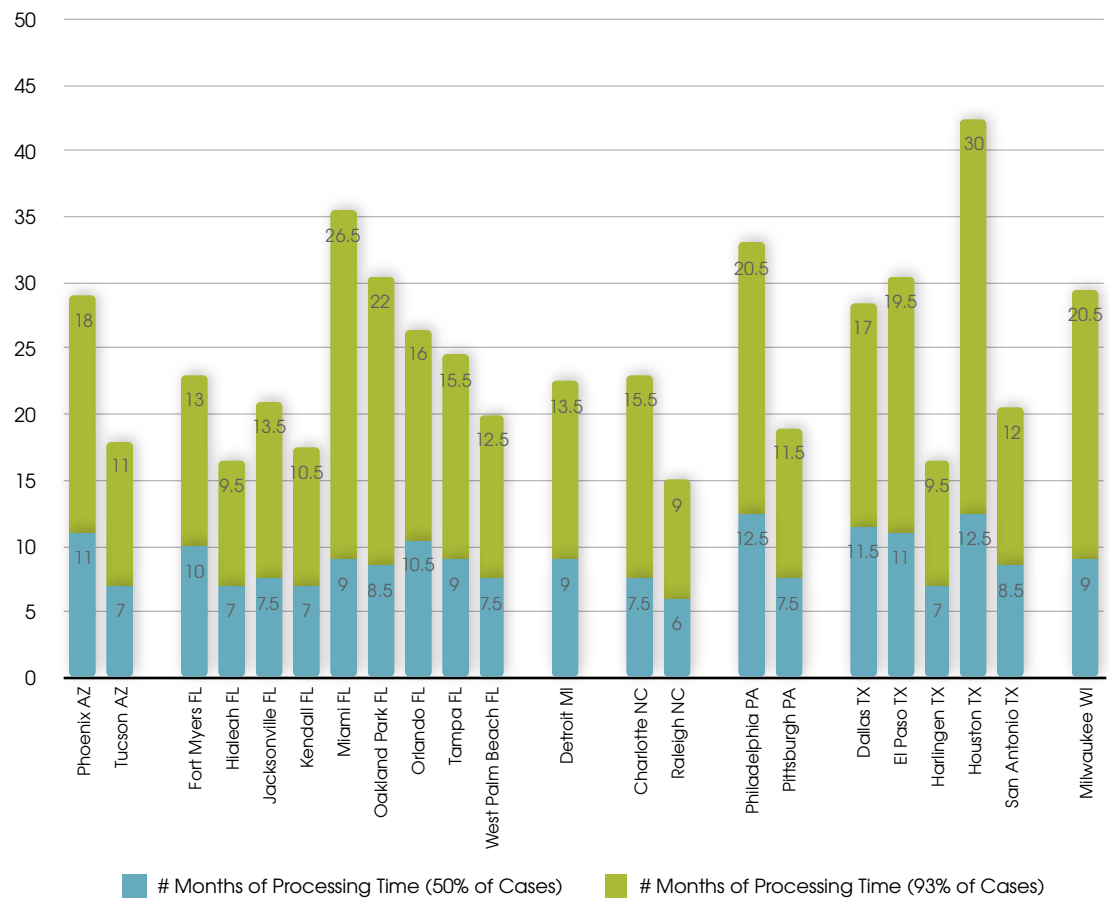
USCIS' own data shows that the average wait time for immigrants seeking to naturalize grew from an average of [5.6 months](#) in 2016 to 10.3 months in 2018, 9.9 months in 2019 and an estimated 8.8 months in 2020. In some cases, naturalization applicants [waited more than two years](#) to complete the process.

As of early October 2020, applicants in several closely watched presidential election states could expect to wait between 6 and 30 months for their naturalization application to be processed, depending on their location. See the following chart for more details.

Officials at USCIS and the Department of Homeland Security have justified these and other changes on the basis of rooting-out what they have characterized as [rampant fraud](#) in the naturalization process. But USCIS [has failed](#) to provide adequate proof of

this supposed fraud, and it has been unable to show through statistical analysis that the current administration’s “extreme vetting” approach has been successful in uncovering larger numbers of fraudulent applications. As of July 2020, approvals of naturalization applications under the current administration remain consistent with USCIS’ historic average range of 89 to 92 percent.

Figure 2.1
Processing Times for Naturalization Applications in Select USCIS Field Offices
 (Data as of 10/5/20)



© ILRC 2020 - Source: United States Citizenship and Immigration Services

The Impact of COVID-19

Following the onset of the COVID-19 pandemic, USCIS employed new [policies](#) that have further delayed or slowed the naturalization process to a standstill for hundreds of thousands of applicants. Some of these policies were justified as necessary to protect public health, but USCIS has consistently [refused](#) to employ safe and common sense approaches to naturalization adjudications during the pandemic. The agency has consistently refused to employ widely used technology or other approaches to process naturalization applications despite widespread criticism from legal experts and bipartisan coalitions of [Democratic and Republican lawmakers](#).

At the onset of the COVID-19 pandemic in [March 2020](#), USCIS closed its field offices to all in-person services, precipitating a dramatic reduction in the agency's operations. Without in-person services, all applications requiring interviews, including naturalization applications, were initially suspended. Naturalization oath ceremonies for applicants that had successfully completed the naturalization process were also [suspended](#).



From the time of USCIS' decision to shut down its field offices to October 1, 2020, the agency has failed to develop consistent, uniform and nationwide protocols for the resumption of its normal customer service operations, even as countless other federal government agencies, businesses, school districts, and universities around the United States found ways to do so.

During this time USCIS officials variously [argued](#) that they lacked either the technology, resources, or statutory authority to develop working alternatives to the agency's standard practices. These claims have been widely disputed by legal experts such as the [ILRC](#), as well as numerous former [USCIS officials](#), but the current administration nevertheless failed to make adjustments.

A gradual reopening of USCIS began on [June 4, 2020](#), but the opening was not uniform or consistent across the nation. USCIS field offices continued to remain closed in many areas of the country and many of the USCIS offices that did reopen resumed limited operations. During this period, hundreds of thousands of would-be citizens were either significantly delayed or otherwise prevented from completing the naturalization process. As of September 1, 2020, hundreds of thousands of naturalization applicants remained in a state of limbo. USCIS averaged [63,000](#) completed naturalizations each month prior to the onset of COVID-19.

Oath Ceremonies

For several months following their decision to [suspend in-person naturalization oath ceremonies](#), USCIS officials refused to create a process to resume the administration of naturalization oaths. As a result of this refusal, Boundless Immigration found that by May 2020 more than [100,000 people](#) were waiting for a naturalization oath ceremony, and were unable to complete the citizenship process. During the early summer months of May and June 2020, Democratic and Republican lawmakers in the [House](#) and [Senate](#) began calling on USCIS to respond through the administration of [remote oaths](#).

The House of Representatives included a provision for remote naturalization in the [HEROES Act](#), which passed the House on May 15, 2020. In June 2020, Rep. John Katko (R-NY-24) was joined by 14 Democratic and Republican members of Congress in sending a [letter](#) to USCIS calling on the agency to waive the administration of in-person oaths during the pandemic, and to administer remote oath ceremonies. A decision to administer remote oath ceremonies during the months of field office closures would have allowed USCIS to complete the naturalization process for as many as [120,000](#) people through efficient and cost-effective processes such as video-conferencing, or telephonic conference calls.

As of September 2020, USCIS officials continued to resist the widespread implementation of remote oath ceremonies by arguing that the agency lacks [the legal authority](#) to hold them. The current administration continued to make this claim even after [judges](#) at multiple USCIS field offices conducted oath ceremonies remotely through video conference, and after many legal experts, including the [ILRC](#), noted that USCIS had the authority to administer remote oaths under existing federal guidelines.

USCIS refused all of these common sense approaches, but under pressure from both political parties, in June 2020, the agency began conducting thousands of oath ceremonies in small, socially distanced groups or drive-through locations. There were no provisions made for immunocompromised individuals, or senior citizens fearing for their safety during the pandemic, who would be unable to safely participate in these small ceremonies due to COVID-19.

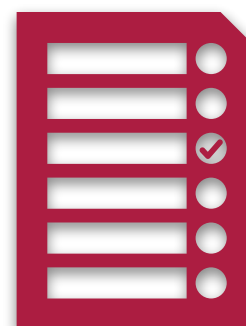
Boundless Immigration has found that these policies have slowed naturalization processing for pending applicants, and will result in as many as [300,000 people](#) being prevented from naturalizing in time to vote in the upcoming November elections.

A New Form of Voter Suppression

In February 2020, [Pew Research](#) noted that current data on the partisan preferences of naturalized voters is not readily available, and it is a known fact that naturalized [citizens](#) do not vote as a monolith. The NAC does not collect survey data on naturalization applicants' partisan preferences or preferred candidates, nor does this report purport to establish that impacted would-be voters are more supportive of either Democratic or Republican candidates. What is clear, however, is that a large number of people have already been blocked from naturalizing in time to meet their states' respective voter registration deadlines for the November 2020 election, and many of these people are highly motivated to vote. Tens of thousands of additional would-be voters can still become citizens in time to register to vote, but USCIS must act quickly.

According to the [National Conference of State Legislatures](#), 21 states and the District of Columbia have enacted same day registration enabling voters to register and cast a vote on the same day. North Dakota does not require voter registration for its residents to vote.

The majority of states still require that eligible residents register to vote by a deadline that can fall between eight and 30 days prior to the election, however. The voter registration deadlines for Texas and Florida have passed by the time of this report's publication. Pennsylvania's voter registration deadline is October 19, and Arizona's voter registration deadline has been extended until October 23 for 2020. North Carolina allows same day voter registration during the state's early voting period, which ends October 31.



It is impossible to know what impact USCIS' naturalization policies could have on an unexpectedly close presidential election in a state like Florida, which was infamously decided by 537 votes in the 2000 presidential election.

According to [data](#) from Boundless Immigration, California, Florida and Texas have the largest number of impacted naturalization applicants, respectively. As of October 5, 2020, [RealClearPolitics](#) (RCP) polling averages in both Florida and Texas were well within the common margin of error for polling for the upcoming presidential election, indicating what could be a very close election in November. The RCP polling averages also indicate a closely contested election in states like Arizona, North

Carolina and Pennsylvania where there are fewer impacted people, but where several thousand votes could still prove important.

The table below in Figure 3.1 shows the number of impacted naturalization applicants in five closely contested states, the 2016 margin of victory for each state, and the RCP average for each state as of October 5, 2020.

Figure 3.1

State	Projected Number of Naturalization Applicants	2016 Margin of Victory	October 5 RCP Polling Average
Arizona	4,640	Trump +91,234	Biden +3.4
Florida	36,887	Trump +112,911	Biden +2.0
Pennsylvania	7,305	Trump +44,292	Biden +6.6
North Carolina	5,235	Trump +173,315	Biden +1.2
Texas	24,860	Trump +807,179	Trump +3.2

Each day that goes by without the expeditious processing of naturalization adjudications combined with the common-sense use of technology to facilitate remote naturalization oaths represents the effective disenfranchisement of thousands of would-be voters. The ILRC has argued that USCIS should not be allowed to abdicate its Congressionally mandated responsibilities when Americans around the country have figured out creative ways to continue functioning during the pandemic.

Conclusion

Traditional bipartisan support for naturalization can be attributed to both parties' historic willingness to court new Americans as potentially valuable additions to their political coalitions. The current administration has chosen to treat new citizens as political adversaries, and USCIS officials have attempted to make it harder for naturalization applicants to become citizens in time to vote. This could pave the way for future administrations to adopt similar policies and practices, which in turn risks turning the naturalization application process into an insurmountable task for millions of new Americans.

Historically, the naturalization adjudication process has been administered solely on the basis of an individual's eligibility, and has not been influenced by partisan politics. Recently, USCIS has been an outlier in this historic norm. Through creating intentional roadblocks to naturalization, USCIS officials appear to have created a novel form of voter suppression that is preventing hundreds of thousands of would-be citizens from participating for the first time in American democracy. In doing so, USCIS is setting a dangerous precedent that could make it harder for future immigrants to obtain citizenship and voting rights.