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Samantha Deshommes
Chief, Regulatory Coordination Division, Office of Policy and Strategy
U.S. Citizenship and Immigration Services
U.S. Department of Homeland Security
20 Massachusetts Avenue, NW
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RE: Agency Information Collection Activities; Revision of a Currently Approved Collection: Application for Naturalization (January 15, 2021); Docket No. USCIS-2008-0025; OMB Control Number 1615-0052.

Dear Ms. Deshommes,

The Immigrant Legal Resource Center (ILRC) submits the following comment in response to the *Agency Information Collection Activities; Revision of a Currently Approved Collection: Application for Naturalization (January 15, 2021); Docket No. USCIS-2008-0025; OMB Control Number 1615-0052*. The ILRC is a national non-profit organization that provides legal trainings, educational materials, and advocacy to advance immigrant rights. The ILRC's mission is to work with and educate immigrants, community organizations, and the legal sector to continue to build a democratic society that values diversity and the rights of all people. Since its inception in 1979, the ILRC has provided technical assistance on hundreds of thousands of immigration law issues, trained thousands of advocates and pro bono attorneys annually on immigration law, distributed thousands of practitioner guides, provided expertise to immigrant-led advocacy efforts across the country, and supported hundreds of immigration legal non-profit organizations in building their capacity. The ILRC has produced legal trainings, practice advisories, and other materials pertaining to the immigration law and processes.[1] The ILRC publishes and regularly updates a comprehensive legal guide on naturalization, *Naturalization and U.S. Citizenship: The Essential Legal Guide*, now in its 16th edition.[2]

The ILRC also leads the New Americans Campaign (NAC), a national non-partisan effort that brings together private philanthropic funders, leading national immigration and service organizations, and over 200 local service providers across more than 20 different regions to help prospective Americans apply for U.S. citizenship.[3] Through our extensive networks with service providers, immigration practitioners, and naturalization applicants, we developed a profound understanding of the barriers faced by low-income individuals seeking to obtain naturalization. In light of our deep reservoir of technical knowledge and the President's directive to promote naturalization by reducing barriers and improving processes, we submit the below comments.[4]

I. INTRODUCTION

The proposed changes to the N-400 arrive at the end of a devastating four years for the naturalization process. Despite nominally claiming to support legal immigration, the Trump administration enacted a multitude of barriers to naturalization. "Increased vetting" introduced unnecessary processes and interviews that substantially increased the workload at USCIS, which in turn slowed processing times and restricted a major portion of USCIS funding gained from fees.[5] Funding issues came to a head for USCIS toward the end of the previous administration, as the already struggling agency underwent a budgetary crisis and hiring freeze that further slowed processing. Form N-400 now has a backlog of nearly one million applicants with record-level processing times, only worsened by the restrictions of the COVID-19 crisis.[6]

In light of this, President Biden issued the *Executive Order on Restoring Faith in Our Legal Immigration Systems and Strengthening Integration and Inclusion Efforts for New Americans* on February 2, 2021, which includes the directive to promote naturalization by eliminating barriers, improving the existing naturalization process, and substantially reducing current naturalization processing times.[7] The Order directs a comprehensive review of processes with "particular emphasis on the N-400 application."[8] These proposed changes were published in the last few days of the Trump administration, as a last-ditch effort to create further, lasting barriers to naturalization. These proposed changes to Form N-400 run counter to President Biden's Order, reflecting the restrictive, anti-immigrant goals of the prior administration, as well as increasing barriers, further complicating the existing process, and contributing to increased workload at USCIS.

These changes to Form N-400 move away from efforts to simplify the naturalization process, decreasing the likelihood that any applicant would be able to file on their own and increasing the processing times and backlog at USCIS. USCIS can employ several strategies to attain desired information from applicants while mitigating the negative effects of a consistently lengthening form: (a) Streamline unnecessary and extraneous fields by relocating them to an *Additional Information* or *Appendix* section at the end of the form; (b) clarify overbroad or confusing descriptions of categories or conduct; (c) return necessary contextual information where it has been removed; and (d) eliminate unnecessary and burdensome evidentiary requirements. When applicable, we reference where changes would have to be made both in the N-400 form and the associated instructions; but generally, USCIS should make changes across both documents to implement any of the below referenced items.

II. REDUCE THE LENGTH OF FORM N-400

USCIS has progressively increased the length of Form N-400 over time, going from four pages in the 1980s to the most recent proposal of 21 pages. Yet again, the current proposed changes add many questions, without cutting or streamlining any of the existing ones. Excessively long forms discourage applicants from applying for naturalization and undermine the explicit goals enumerated by President Biden's Executive Order 14012 to promote naturalization, eliminate barriers to naturalization, and reduce processing times.[9] Excessive length has a particular impact to those applying pro se without individualized legal assistance, including those who are eligible for assistance through pro bono citizenship workshops and clinics. In our experience, the length of the N-400 form discourages applicants from applying and negatively impacts the number of people that legal service providers can assist at a workshop.

USCIS has cited increased administrative burden as a major contributor to the worsening processing times and backlog for Form N-400, and longer forms certainly add to that burden.[10] As of September 2020, the average processing time for the N-400 form was 9.3 months, an increase of 66 percent over the 2016 average of 5.6 months.[11] As of March 2021, roughly one third of field service centers report case

processing times of up to 18 months, some peaking to as long as 29.5 months in the case of a major hub like Atlanta, Georgia.[12] Already at a record high prior to the pandemic, the N-400 backlog has worsened considerably under the restrictions of the COVID-19 crisis, surging from 652,431 to 938,154 pending applications in less than a year.[13]

The Administration itself estimates that 9.2 million lawful permanent residents are eligible to naturalize but have not applied.[14] USCIS should thus make a concerted effort not to restrict naturalization application rates through unnecessary additions to Form N-400.

A. Streamline Unnecessary and Extraneous Fields

The proposed Form N-400 displays and requests a wide variety of information that is either unnecessary or that USCIS can request in a more efficient manner. By striking and streamlining questions, fully utilizing the *Additional Information* section, USCIS can maintain a succinct and clear form while including important but less generally applicable information apart from the main form. Form N-400 can be edited for length through the following changes:

1. Part 5, Additional Information About Your Residence, strike Questions 1.C-E.; Part 8, Information About Your Employment and Schools You Attended, strike Question 2-3; Part 11, Information About Your Children, strike Questions 2.B-D. No matter how many additional default fields USCIS includes, a portion of applicants will still need to use the *Additional Information* section to list additional addresses, employer/school names, or children. USCIS can accommodate those with multiple entries while maintaining a concise form by providing a single prompt to input the first or most recent entry, striking all subsequent additional prompts, and instructing applicants to put all additional entries in the *Additional Information* section.

2. Part 12, Additional Information About You, relocate Question 44.A-C to *Additional Information* and change the preceding text to read:

   "If you answered "Yes" to Item Number 44., please refer to *Additional Information* to answer 44.A-C ~~(if you answered "No," select, type or print "N/A" in every field).~~"

   The proposed changes add several detailed questions regarding past removal proceedings. Most applicants will not have been previously removed or deported from another country, so to save space USCIS should relocate these questions to *Additional Information.* It is unnecessary to include "N/A," if the answer to Question 44 is "No," as moving the following questions to *Additional Information* eliminates any confusion of leaving them blank.

3. Part 12, Additional Information About You, relocate Question 47.A-D to *Additional Information* and change the preceding text to read:

   "If you answered "Yes" to Item Number 47., please refer to Additional Information to answer 44.A-D ~~(if you answered "No," select, type or print "N/A" in every field)~~."

   The proposed changes add several detailed questions regarding military service. Most applicants will not have been previously removed or deported from another country, so to save space USCIS should relocate these questions to Additional Information. It is unnecessary to include "N/A," if the answer to Question 47 is "No," as moving the following questions to Additional Information eliminates any confusion of leaving them blank.

4. Part 18, Renunciation of Foreign Titles, relocate section to *Additional Information.* The vast majority of applicants will not have foreign titles to renounce. Accordingly, USCIS should direct

applicants to provide this affirmation in the *Additional Information* section. Alternatively, USCIS can provide a supplement for the applicant to complete in person, as they will have to reaffirm this renunciation in front of a USCIS officer regardless of whether they renounce their title on Form N-400.

In addition to the changes above, USCIS should conduct a statistical analysis to determine which non-essential fields on Form N-400 applicants use the least. USCIS should then explore strategies to eliminate or reduce these fields accordingly. For example, if USCIS determines that the vast majority of applicants only use the first row of a four row chart, then it should strike the last three rows and direct use of the *Additional Information* section.

III. RECOMMENDATIONS FOR FORM N-400: EVIDENTIARY BURDEN AND CLARITY

In addition to the ever growing administrative burden to USCIS adjudicators, the proposed form puts additional burden on the applicants beyond what is statutorily necessary to meet naturalization eligibility requirements. Many of the questions and required information concern issues that do not apply to most applicants, or that go beyond the eligibility criteria for naturalization required by statute. Detailed questions about third parties, such as excessive biographic information about a spouse or prior spouse, fall well beyond the scope of naturalization requirements and have a chilling effect on naturalization.

1. Part 1, Information About Your Eligibility, Question 1, make the following changes:

   "E. You are applying on the basis of qualifying under the Violence Against Women Act (VAWA) as a person who (a) obtained status as a lawful permanent resident by reason of your status as a spouse or child of a United States citizen who battered you or subjected you to extreme cruelty, (b) has continuously resided in the United States for at least three years after gaining lawful permanent residency, (c) whose spouse was a U.S. citizen for at least half this time and residing continuously in the United States for at least half that time, and (d) whose spouse has resided in the state or district of Service that you are applying under for at least three months (as specified under INA section 319(a)).
   ~~D.~~ E. You are applying on the basis of qualifying military service.
   ~~E.~~ F. Other (Explain): [Fillable field]"

   Applicants who were abused by their U.S. citizen parents or former or current spouse are able to apply for naturalization after three years without having to rely on their U.S. citizen abusers. USCIS should list this path to eligibility along with all others in this section, particularly as it allows an applicant to apply in three years rather than five.

2. Part 2, Information About You, strike Question 7 entirely. This question does not serve a statutory purpose and is unnecessarily ambiguous with the phrase "associated with." At the very least, USCIS should clarify if it simply means "used" any other Social Security number.

3. Part 5, Information About Your Residence, make the following changes:

   "Where have you lived during the last ~~10~~ 5 years or since you became a lawful permanent resident, whichever is shorter. Provide your most recent residential address first and then list every other address where you have lived during the last ~~10~~ 5 years or since you became a lawful permanent resident, whichever is shorter, whether inside or outside of the United States."

   USCIS proposed doubling the amount of time for which applicants must supply addresses, which adds a tedious and unnecessary burden. In recent history the standard for Form N-400 has been

five years of residence history, which means that many applicants preparing for naturalization may not have kept records for ten years worth of residence. Neither statute nor regulations require ten years of address history, and the additional addresses are not necessary for eligibility determinations.

This change will increase the length of time it takes to complete an application, creating an unnecessary burden on applicants and their representatives, and requiring some applicants to have to search for records from a decade ago. The change would also negatively impact applicants who were low-income or housing insecure in the past decade and experienced stints of homelessness, lived in shelters/temporary housing, or simply changed housing frequently, that would create an inconsistent address history. Additionally, the extra five years of residence can discourage applicants with a history of insecure housing from applying because they often do not remember where they have lived. The increased requirement could also discourage eligible people from applying due to concerns over revealing an address that includes mixed-status family members. After the last four years of bad faith immigration enforcement policies, potential applicants may be reluctant to provide excess information to the federal government for fear it may be used against their community.

4. Part 7, Biographic Information, strike Questions 1 and 2. USCIS should strike the collection of ethnic and racial information on the application form and instead collect it at subsequent biometrics appointments. Perception and understanding of race and ethnicity categories vary across countries and cultures, which can result in great difficulty for applicants from cultures with different conceptions of these categories than the United States. Additionally, there is no explanation of how to answer the questions if the applicant does not identify with the categories on the form. For example, some applicants who identify as Latino under Question 1 may have difficulty answering Question 2 if they consider Latino to be both their ethnicity and race. This information collection also pre-dates the new system of biometric collections, making these questions moot. For use in biometrics and background checks, USCIS could better collect this information at the biometrics appointment where applicants can ask clarifying questions. At a minimum, USCIS should clarify how to answer for those that do not fit the established categories.

5. Part 9, Time Outside the United States, make the following changes:

   "1. How many total days (24 hours or longer) did you spend outside the United States since you became a lawful permanent resident or during the last ~~10~~ 5 years?~~, whichever is shorter?~~
   2. How many trips of 24 hours or longer have you taken outside the United States since you became a lawful permanent resident or during the last ~~10~~ 5 years?~~, whichever is shorter?~~
   3. List below all the trips of 24 hours or longer that you have taken outside the United States since you became a lawful permanent resident or during the last ~~10~~ 5 years~~, whichever is shorter~~. Start with your most recent trip and work backwards."

   As stated above, the statute requires an applicant to have continuously resided in the United States for at least five years as a lawful permanent resident, and requesting ten years of history for time spent outside the United States overburdensome and unnecessarily beyond statutory requirements. This change will increase the length of time it takes to complete an application, creating an unnecessary burden on applicants and their representatives, and requiring some applicants to have to search for records from a decade ago. Because of the ten-year span, this means that most applicants' current passports will not date far enough back, as they are only valid for ten years, thus increasing the burden for many of answering this question. In recent

history, the standard for Form N-400 has been five years of evidence, meaning many applicants may not have kept records as far back as ten years in preparation for naturalization.

USCIS should also clarify the relationship between questions about trips over 24 hours and questions concerning any trip outside of the United States. Applicants who make frequent trips to and from the United States, such as applicants living near the border, could simultaneously answer "no" to trips over 24 hours but "yes" on many occasions to whether they have "ever left the United States," which may appear as a contradiction to USCIS and cause confusion. USCIS should address this possible "contradiction" in the directions for the section, clarifying more clearly that "day trips" or entrances and exits for the purposes of work or school under 24 hours do not fall under this question.

6. Part 10, Information About Your Marital History. USCIS should reduce the amount of information requested in this section, particularly regarding past spouses and a current spouse's prior spouse. These questions may be a particular burden for survivors of domestic violence, whose past abuse may make it impossible to obtain the required information, or force an applicant or their spouse to contact a formerly abusive partner to obtain such granular information. This is a particular burden for immigrant abuse survivors, as the immigrant community faces unique factors like immigration status and sociopolitical marginalization that make reporting abuse difficult.[15] Former abusers can use applications for legal status or naturalization to gain control over their partner by threatening to jeopardize the application, for example. Requiring an applicant to attain details of their spouse's previous spouse is a clear burden to the applicant beyond what is required by statute or needed to determine eligibility.

   Additionally, providing such detailed information violates the privacy of the third party in question, particularly if they have no direct relationship to the applicant (such as a spouse's prior spouse).

   a. Page 7, Question 3, revert to original list of marriages. The additional "types" of marriages added to this question are too broad and outside the scope of statutorily required knowledge about an applicant's marriage history. If USCIS insists on keeping the expanded list, it should add the following language:

      "NOTE: Only include marriages that were valid in the country in which the marriage took place."

      This language is essential, as some applicants will have engaged in unions and ceremonies that would not make them "married" for immigration purposes, which can cause confusion for USCIS and applicants alike regarding which marriages are pertinent for immigration purposes.

   b. Page 8, strike Question 4.H entirely. There is no need for the spouse's work address to be listed. The physical address of the spouse's employment is not relevant to the applicant's eligibility, and could have a chilling effect on applicants who do not want to provide this information.
   c. Page 9, strike Question 8 entirely. At the very least, USCIS could limit this inquiry to the prior spouse's name but not any additional, irrelevant information, striking subsections B-H.
   d. Page 9, strike Question 9.B-F entirely.

7. Part 11, Information About Your Children, strike the entirety of Part 11. All the information requested in this section does not pertain to naturalization eligibility and violates the privacy of

the children themselves, who are not the applicants in question. This forces applicant parents to choose between applying for naturalization and disclosing potential private and sensitive third party information (such as the location of an undocumented child), which may deter them from applying at all. Applicants may also have difficulty obtaining such information for every child, especially if for children who live outside the United States. If USCIS insists on collecting information on an applicant's children, it should only request: (a) the child's name; the child's A-number (if known); (c) and city, state, and country where the child is living, not specific addresses. USCIS may contend that the purpose for collecting the data on an applicant's children is to determine if any of the children might derive citizenship when the parent naturalizes. If this is the case, however, then it is sufficient to merely state in the instructions that in some instances one's child might be able to derive citizenship upon the naturalization of the parent followed by a citation to the policy manual, rather than insist upon the data of all the children.

8. Part 12, Additional Information About You, make the following changes on Page 11:

   "NOTE: Answering "Yes" to any of the items in Part 12 will have consequences on your ability to naturalize. If you believe you will answer "Yes" to any of the questions in Item Numbers 1. - 47., you should consult with an accredited representative or legal counsel.

   Answer Item Numbers 1. - 25. If you answer "Yes" to any of these questions, provide additional information in the space provided in Part 16. Additional Information."

   As detailed below in our comment, many items in Part 12 suffer from ambiguous wording or unclear intention, making it very possible that an applicant may answer "yes" to a question when they do not in fact fall under the categories or conduct indicated. For example, an applicant who is part of a school ROTC-like program may answer "yes" to being a member of a "Paramilitary Unit," or a victim of kidnapping may consider themselves as having "participated" in a kidnapping. As answering "yes" to any of these questions has a devastating impact on an applicant's ability to naturalize, USCIS should incorporate this and following changes to ensure no eligible applicant is rejected due to misunderstanding the weight of this section.

9. Part 12, Additional Information About You, Question 1, make the following changes:

   "1. Have you **EVER** claimed to be a U.S. citizen (in writing or any other way) for any purpose or benefit under immigration law or under any federal or state law?"

   Under INA 237(a)(3)(D), a claim must be for "any purpose or benefit" under the INA or "any Federal or State law" to be considered a false claim of citizenship. As written, this question is overbroad and seeks information regarding claims to citizenship that are not covered by statute. This change narrows the scope of the question to accurately track the relevant portion of the INA.

10. Part 12, Additional Information About You, Question 3, make the following changes:

    "Have you **EVER** voted illegally in any Federal, state, or local election in the United States?"

    Not all elections preclude noncitizens, or even undocumented people, from voting. For example, ten municipalities located in Maryland and California currently allow noncitizens to vote in local elections. The question as worded may lead some applicants who have legally voted in a non-federal election to answer "yes" when their conduct does not affect their eligibility. Thus we suggest the addition of the above language.

11. Part 12, Additional Information About You, Question 6, make the following changes:

"Do you currently owe ~~or have you ever had~~ any overdue Federal, state, or local taxes from ~~in~~ the last five years?"

If the applicant has paid all past overdue taxes, there is no statutory reason for USCIS to ask if an applicant has had overdue taxes in the past. The question as written may discourage an applicant who has paid their back taxes in full from applying, even though they are eligible. An applicant is eligible for naturalization so long as they have paid their owed taxes up to the present, and thus we suggest the language above to clarify that point.

12. Part 12, Additional Information About You, Question 7.A, make the following changes:

"Have you ~~EVER~~ not filed a Federal, state, or local tax return that you were required to file since you became a lawful permanent resident?"

USCIS should start by striking "ever" from the Question 7.A., as elsewhere in Form N-400 it is used to inquire whether an action was completed at *any* time in the applicant's life, while in this instance the question only pertains to the time the applicant was a lawful permanent resident. As this is contradictory and confusing, an applicant could take this question to mean a larger time period than is referenced. We have observed that applicants regularly ask questions about this inconsistency, and it would clarify the intent of the question to strike the word "ever."

Secondly, many federal and state jurisdictions do not require individuals who make under a certain amount of money to file a tax return. For example, individuals under 65 who make less than $12,400 are not legally required to file federal taxes.[16] Additionally, minors are often not required to file taxes. Thus USCIS should clarify with the above language that applicants who are tax exempt and are not required to file taxes would still answer "no" to this question.

13. Part 12, Additional Information About You, strike Question 9 entirely. As this question is extremely broad and unclear, we have observed that applicants in naturalization workshops often leave it completely blank. The premise is unnecessary and impossibly broad, asking applicants to list all groups that the applicant has ever been "in any way associated with" anywhere in the world at any time. The question can be easily interpreted to require the applicant to list dozens, if not hundreds of different organizations they have interacted with throughout their life, from political parties and high school student councils to sports leagues and gym memberships. USCIS already employs Questions 10-24 to ask about membership or participation in certain groups to identify potential grounds of inadmissibility or deportability. If, however, USCIS insists on maintaining this question, it should at the very least strike "involved in, or in any way associated with" to narrow this question just to membership and provide better guidance to applicants.

Furthermore, the proposed changes require geographic, thematic, and other specific details about every single organization that are unnecessary and overly burdensome. The proposed changes will increase the time it takes to fill out an application and review it while not necessarily adding any evidence needed for adjudication.

14. Part 12, Additional Information About You, Question 12, make the following changes:

"Have you EVER ordered, incited, or assisted ~~or otherwise participated~~ in the persecution of ~~causing harm or suffering to~~ any person because of race, religion, national origin, membership in a particular social group, or political opinion?"

In the current Form N-400, this question uses the more specific and legally correct "persecution" rather than "suffering and harm," the latter of which is overly vague and could cause confusion. For example, an applicant could believe that teasing someone for their religion when they were a

teenager would require them to answer "yes" to this question, when such behavior does not affect eligibility for naturalization. This confusion could create a chilling effect, as those who believe that more minor conduct would disqualify them from naturalization may decide not to apply.

15. Part 12, Additional Information About You, Question 15, make the following changes:

"15. Have you **EVER** served in, been a member of, assisted (helped), or participated in, any of the following groups:

A. Military unit?

B. Paramilitary unit (a group of people who act like a military group but are not part of the official military)?

C. Police unit?

~~D. Self-defense unit?~~

E. Vigilante unit (a group of people who act like the police, but are not part of the official police)?

F. Rebel group?

G. Guerrilla group (a group of people who use weapons against the military, police, government, or other people)?

H. Militia (an army of people not part of the official military)?

I. Insurgent organization (a group that uses weapons and fights against a government)?

~~J. Any other armed group?~~"

The categories in Question 15 are extremely vague and overbroad, using terms like "police unit" and "rebel group" that vary by interpretation and country. "Self-defense unit" in particular has no common definition in the English language and is unnecessary given the other listed groups. Without clarifying the types of groups USCIS is actually asking about, an applicant could easily assume that a "paramilitary unit" includes a school ROTC-like program, a "vigilante unit" includes a neighborhood watch group, a "rebel group" includes engaging in peaceful protest, and a "militia" includes any large group of people.

The best solution to avoid confusion would be for USCIS to reformulate Question 15 to refer to specific conduct, not membership in any particular group. For instance, USCIS could replace Question 15 with a question asking applicants if they belonged to any group where they were trained in the use of weapons or attacked other people or groups. If USCIS insists on keeping the current configuration, however, it should incorporate specific definitions to narrow the question to conduct that would pertain to eligibility for naturalization. For example, the proposed changes to Question 14.D adjust the language to be more specific to conduct that affects eligibility, going from "badly hurting, or trying to hurt a person on purpose" to "intentionally and severely injuring any person." Similar changes can be made for Question 15.

16. Part 12, Additional Information About You, Question 11, make the following changes:

"Have you **EVER** advocated (either directly or indirectly~~, in writing or any other way~~) the overthrow of any government by force or violence?"

The proposed language is redundant and could cause confusion for applicants, as they may question if they have understood the sentence correctly. This language could serve to unduly chill

freedom of speech or even undermine the ability of academics or scholars to call for electoral change through writings or speeches.

17. **Part 12, Additional Information About You, Questions 10 and 13, make the following changes:**

    "10. Have you **EVER** been a member of~~, or in any way associated (either directly or indirectly) with~~:"

    "13. Between March 23, 1933, and May 8, 1945, did you work for~~ or associate in any way (either directly or indirectly) with~~:"

    Questions 10 and 13 are overbroad such that those who study, were victimized by, or even lived under the jurisdiction of any of the listed groups could erroneously answer "yes" to these questions. An applicant from a country controlled by the Communist party, for example, would have to answer "yes" to question 10.A., as "association" with the party would be unavoidable merely by virtue of living there, even if they never participated Communist party activities. The above changes narrow the scope of the questions to membership rather than circumstantial or forced "association."

18. **Part 12, Additional Information About You, Question 14, make the following changes:**

    "14. Have you **EVER** ordered, incited, called for, committed, assisted, or helped with~~, or otherwise participated in~~ any of the following:"

    As above, Question 14 is phrased in such a way that a *victim* of any of the listed conduct may erroneously mark "yes" to the subsequent questions regarding that conduct. For example, an applicant who was tortured would have "participated" in an "act involving torture," adding to the trauma of the applicant and not providing useful information to USCIS regarding naturalization. In our experience, victims of crimes often misunderstand these questions and believe they should answer "yes." The above changes narrow the question to only those who committed or supported the listed conduct, not those who were on the receiving end of such conduct. If USCIS does not implement the above changes, it should at the very least clarify being a victim of one of the listed crimes does not count as "participation."

19. **Part 12, Additional Information About You, eliminate Question 16 and Question 17.** Ideally, USCIS would eliminate these questions completely, as they are a repeat of Question 15. These questions suffer from the same issues as Questions 10, 13, and 14 in that the current wording could conceivably lead victims of such groups, or even those simply living under their jurisdiction, to answer "yes" to these questions, having been "associated" with the groups in question. At the very least, USCIS should add language to clarify that being a victim of such groups or living within their sphere of power does not count as being "associated" with them.

20. **Part 12, Additional Information About You, Question 20, make the following changes:**

    "20. Have you **EVER**, willingly and without threat or coercion, provided any money, a thing of value, services or labor, or any other assistance or support to an individual, group, unit, or organization that used a weapon to injure any person or engage in violence, or that threatened to do so?"

    Question 20 is worded in such a way that those who were forced to provide labor, money, or services to a violent group would have to answer "yes" to this question, despite being victims of such a group rather than participants. For example, neighbors extorted by a local gang to pay a

monthly fee under the threat of violence would have to answer "yes" to Question 20. The above change narrows the focus to those who willingly assisted violent organizations.

21. **Part 12, Additional Information About You, Question 21.A-B., make the following changes:**

    "~~21. A. Have you **EVER** sold, provided, or transported weapons, or assisted any person in selling, providing, or transporting weapons?~~

    ~~21. B. If you answered "Yes" to Item Number 21., Item A., did you know or believe that~~ 21. Have you **EVER** knowingly sold, provided, or transported weapons to any person you believed or knew planned to use the weapons against another person?"

    Question 21.A as written is beyond the statutory scope of eligibility for naturalization, as whether an applicant has legally sold or helped sell a weapon in general does not address eligibility and does not automatically imply illegal or negative conduct. Ideally, Question 21 would be stricken entirely, as this conduct already falls under Question 20's "thing of value" portion. At the very least, however, USCIS should implement the above changes to narrow the scope to conduct that would actually affect the eligibility of the applicant.

22. **Part 12, Additional Information About You, strike Question 22.** As written, Question 22 is too vague and unclear about the type of weapons training indicated. Ambiguous phrases like "paramilitary training" and "military-type training" could easily be interpreted to cover conduct related to programs like school ROTC, gun safety courses, or even krav maga lessons, as it is a combat method developed by the military. Additionally, receiving weapons training from a non-governmental body is not in and of itself within the scope of conduct that would affect eligibility for naturalization.

23. **Part 12, Additional Information About You, Question 23.G-H, make the following changes:**

    "23. G. Have you **EVER**, willingly and without threat or coercion, provided money, a thing of value, services or labor, or any other assistance or support for any of the activities described in Item Number 23., Items A.-D.?"

    "23. H. Have you **EVER**, willingly and without threat or coercion, provided money, a thing of value, services or labor, or any other assistance or support to an individual, group, or organization who did any of the activities described in Item Number 23., Items A. - D.?"

    As with Question 20, these sub-questions are worded in such a way that those who were forced to provide labor, money, or services to any group committing such conduct would have to answer "yes" to this question, despite being victims of such a group rather than participants. For example, the driver of a hijacked vehicle that was forced to transport the hijackers to for a time may believe they were a "participant" conduct that would require them to answer "yes" to Question 23.G-H. The above changes narrow the focus to those who willingly assisted individuals or groups who committed these crimes.

24. **Part 12, Additional Information About You, Questions 27.A and 29, eliminate duplicate questions.** Questions 27.A and 29 both ask "Have you **EVER** had your fingerprints taken by a law enforcement officer in any country other than for a background check?" The duplication is confusing, and Question 29 should be stricken from the form.

25. **Part 12, Additional Information About You, strike Question 37.J.** We recommend that USCIS maintain the existing language for this question and strike the proposed additions. Adding additional subparts to this question function as a form of extreme vetting and re-adjudication.

Expansion of this question attempts to re-adjudicate grounds of inadmissibility that previous vetting (particularly when an individual was seeking to obtain LPR status) already covered.

26. **Part 12, Additional Information About You, strike Question 37.H.** This proposed question asks applicants to opine on whether their acts violated any law or regulation or any state, the United States, or a foreign country. It is a confusing and unnecessary addition that calls for a complicated legal determination by the applicant regarding the elements of different controlled substances offenses. The proposed question is very broad, and any such conduct that would make an applicant ineligible for naturalization is addressed elsewhere in the section in greater specificity. As such, it should be stricken entirely.

27. **Part 12, Additional Information About you, eliminate Question 44 entirely.** Whether an applicant has been deported from a country other than the United States is outside the statutory requirements for naturalization and is thus irrelevant. This question adds unnecessary burden to the applicant, unnecessary length to the form, and unnecessary adjudicative burden to USCIS.

28. **Part 12, Additional Information About You, Question 49.B, make the following changes:**

    "NOTE: If you answered "No" to Item A. in Item Number 49., and you are still under 26 years of age, you must register before you apply for naturalization, and complete the Selective Service information above.

    If you answered "No" to Item A. in Item Number 49., and you are now at least 26, but under 31 years of age (or at least 26, but under 29 years of age if you are applying based on being the spouse of a U.S. citizen), you must explain why you did not register in Part 16. Additional Information. ~~You must also provide a status information letter from the Selective Service.~~"

    After an applicant has stated that they have not registered for the Selective Service and explained why, it is redundant and burdensome to also be required to provide a status information letter from the Selective Service. In addition to the burden on the applicant, such a requirement adds unnecessary adjudication burden to both USCIS and the Selective Service who must also spend the time to supply and verify unnecessary documents. The most recent annual report from USCIS specifically cites "increased vetting" measures as one of the major architects of the current backlog of N-400 forms, and it is counterproductive to add yet another unnecessary measure.[17]

29. **Part 12, Additional Information About You, replace all instances of "crime or offense" with "criminal offense."** Part 12 of Form N-400 seeks information about criminal behavior, but the phrase "crime or offense" blurs the line between two terms that are not equal in specificity. An "offense" is a very generic, vague term that may be irrelevant to whether an applicant committed a crime. Replacing the phrase with the more specific and defined "criminal offense" is a simple fix and leads to answers from applicants that are more in line with what USCIS is actually screening for.

IV. RECOMMENDATIONS FOR N-400 INSTRUCTIONS

The proposed changes include ten additional pages for the N-400 Instructions. The majority of this additional text is confusing and should be removed. In particular:

1. **Page 2, strike items 5-10 in the list of "Who Should Not File."** The list of "Who Should Not File" is expanded from 2 to 10 items that include rare instances of ineligibility (particularly 5-10) that, while accurate, add unnecessary length to the instructions and could create confusion for the

average applicant. Alternatively, relocate items 5-10 out of the main instructions and to an *Appendix* and include instructions to direct relevant applicants to that section.

2. **Page 3, Additional Eligibility Requirements.** This four-page addition to the eligibility requirements is overly detailed and unnecessarily burdensome. In addition to moving this section to an *Appendix*, USCIS should reduce the amount of information requested in this section, particularly under "Required Evidence" sections (see below).

3. **Pages 3-6, relocate parts of section entitled "Additional Eligibility Requirements" to an *Appendix*.** "Additional Eligibility Requirements" adds several pages of scenarios beyond most applicable eligibility requirements, most of which will not apply to any one applicant, adding unnecessary length and confusion to the instructions. The sections entitled: (a) "Eligibility Based on Marriage to a U.S. Citizen;" (b) "Eligibility for the Spouse of a U.S. Citizen Working for a Qualified Employer Outside the United States;" (c) "Spouse of a Member of the U.S. Armed Forces;" and (d) "Eligibility for Current and Former Members of the U.S. Armed Forces" can be relocated to an *Appendix* with the following changes on Page 3:

   "If you are a spouse of a U.S. Citizen, a spouse of a member of the U.S. Armed Forces, or a member of the U.S. Armed Forces, refer to [page number] of the Appendix for additional specific requirements and exceptions to those requirements. ~~Information on additional specific requirements and exceptions to these requirements are outlined below.~~ You must meet all the qualifications during the required period immediately preceding the filing of your application for naturalization and up to the time of the Oath of Allegiance."

4. **Page 3, Additional Eligibility Requirements, insert information about eligibility under the Violence Against Women Act (VAWA).** In addition to the added eligibility question in Part 1, Question 1 of Form N-400, USCIS should add detailed information to the instructions (or where to find such added information in an Appendix) on the eligibility requirements to apply for naturalization under VAWA and the required evidence, similar to the addition of "Eligibility Based on Marriage to a U.S. Citizen" and similar sections on Pages 3-6. Applicants who were abused by their U.S. citizen parents or former or current spouse are able to apply for naturalization after three years without having to rely on their U.S. citizen abusers. USCIS should list this path to eligibility and its requirements, particularly as it allows an applicant to apply in three years rather than five.

5. **Page 6, Time as a Lawful Permanent Resident, make the following changes:**

   "You must be a lawful permanent resident for 5 years before applying for naturalization unless you are:
   • Applying for naturalization based on service in the U.S. armed forces;
   • Applying for naturalization based on being a spouse of a U.S. citizen, including the spouse of a U.S. citizen in qualified employment outside the United States; ~~or~~
   • Applying for naturalization under the Violence Against Women Act (VAWA) based on being a spouse or child of a U.S. citizen who battered you or subjected you to extreme cruelty; or
   • A U.S. noncitizen national (person born in American Samoa or Swains Island)."

   As above, it is essential to ensure that applicants are aware of their eligibility to apply for naturalization in three years rather than five even if they are not able to be sponsored by an abusive spouse or parent. Lack of knowledge about this path to eligibility could lead battered children or spouses to believe that they are unable to naturalize without facing danger from their

abusive spouse or parent, forcing them to choose between naturalization and safety. Thus USCIS should list eligibility under VAWA along with all other opportunities to naturalize in three years.

6. Page 7, Continuous Residence, make the following changes:

   "Certain applicants must establish that they did not break the continuity of their residence in the United States. You must list all of the trips over 24 hours you have taken outside the United States in your last five years as a permanent resident ~~since you became a lawful permanent resident or during the last 10 years, whichever is shorter~~."

   Applicants are required by Form N-400 to report all trips outside the United States over 24 hours, not every trip they have ever taken. As worded, this direction would be particularly difficult for those who live near the border and cross regularly for school or work in short trips under 24 hours. Thus USCIS should insert the above language to specify that trips under 24 hours do not have to be listed to determine continuous residence or physical presence.
   The statute also requires an applicant to have continuously resided in the United States for at least five years, as a lawful permanent resident and the physical presence requirement only go back five years, and requesting ten years of evidence for continuous residence or physical presence is thus overburdensome and unnecessary beyond statutory requirements. The standard for the many years for Form N-400 has been five years of evidence, meaning many applicants may not have kept records as far back as ten years in preparation for naturalization.

7. Page 10, Good Moral Character, Citizenship Claims and Voting, make the following changes:

   "~~You may not qualify for naturalization if you previously claimed you were a U.S. citizen or you unlawfully voted in the United States in a federal, state, or local election.~~"

   This statement is legally erroneous and should be struck. Neither false claim to citizenship nor illegal voting is an automatic bar to U.S. citizenship. Rather, both grounds may lead to a denial of naturalization based on finding a lack of good moral character, which is a complex process that requires the weighing of positive and negative equities in a case and looking at a totality of circumstances in a case. This language incorrectly communicates the legal standard and may lead some applicants to believe that they are not eligible for naturalization even though they may have subsequently been approved through good moral character analysis.

8. Page 11, Taxes, make the following changes:

   "If you have failed to pay any taxes that you were required to file in the last five years as a lawful permanent resident, ~~as required,~~ we may determine that you lack good moral character."

   USCIS should make sure that applicants understand that they must demonstrate that they have paid and filed taxes: (a) during the last five years of being a lawful permanent resident, not "ever," and (b) that only those who were required to file a tax return need to have paid taxes. For example, an applicant who makes under a certain amount of money or, in most cases, who is a minor is not required to file a tax return and would not be determined to lack "good moral character" upon having not paid taxes in general. This confusion may preclude an applicant from thinking they are eligible if they fall into these categories, and USCIS should clarify with the above changes.

9. Page 12 Crimes and Offenses Evidence, replace all instances of "crime or offense" with "criminal offense" and all instances of "offense" with "criminal offense." As stated above, Form N-400 seeks information about criminal behavior, but the phrase "crime or offense" blurs the line

between two terms that are not equal in specificity. An "offense" is a very generic, vague term that may be irrelevant to whether an applicant committed a crime. Replacing the phrase with the more specific and defined "criminal offense" is a simple fix and leads to answers from applicants that are more in line with what USCIS is actually screening for.

10. Page 14, G. Arrests and Convictions, make the following changes:

    "NOTE: You must submit documentation of traffic incidents if:
    (1) The incident involved alcohol or drugs on your part;
    (2) The incident led to an arrest; or
    (3) The incident seriously injured another person."

    The way the language is currently written makes it sound like an applicant would have to submit documentation of a traffic incident if the other driver(s) were using alcohol and/or drugs; and the applicant was not. The proposed language clarifies that when alcohol or drug use was limited solely to the other party, then documentation regarding the incident need not be submitted.

11. Page 13, Party or Group Affiliations, make the following changes:

    "Current or previous membership in certain organizations may indicate lack of good moral character, unlawful admission, or lack of attachment to the principles of the U.S. Constitution, or indicate that you are not well disposed to the good order and happiness of the United States. ~~You must provide a full list of all your memberships and affiliations regardless of the type of group~~."

    As worded, these directions are extremely broad and unclear, asking for a list of any group at any time anywhere in the world. The question can be easily interpreted to require the applicant to list dozens, if not hundreds of different organizations an applicant has interacted with throughout their life. USCIS already employs questions to ask about membership or participation in certain groups to identify potential grounds of inadmissibility or deportability.

12. Page 13, Selective Service, Evidence Required at the Time of Filing, make the following changes:

    "1. If you were required to but did not register with the Selective Service System before you turned 26 years of age, you must provide a ~~status information letter from the Selective Service; and 2. A~~ statement regarding your reasons for failing to register."

    As stated above, after an applicant has stated that they have not registered for the Selective Service and explained why, it is redundant and burdensome to also be required to provide a status information letter from the Selective Service. In addition to the burden on the applicant, such a requirement adds unnecessary adjudication burden to both USCIS and the Selective Service who must also spend the time to supply and verify unnecessary documents. If, in fact, USCIS wants to direct applicants to the Selective Service to help determine if they have registered for the Selective Service, then they should do so rather than mandating a letter, which is going to say something the applicant already knows and is attesting to.

13. Page 14, Naturalization Testing and Exceptions, return information regarding exemptions from the English language test and make the following changes:

    "One requirement for naturalization is to take the naturalization test. . .
    . . .stating that you meet certain age and residency requirements. For additional information on age and residency requirements, see "Exemptions From the English Language Test on page [page number] in the Appendix. For additional information about the test, please visit www.uscis.gov/citizenship."

Add to an *Appendix*:

"Exemptions From the English Language Test

You are not required to take the English language test if:

1. At the time of filing your Form N-400, you are 50 years of age or older and have lived in the United States as a permanent resident for periods totaling at least 20 years. You do not have to take the English language test, but you do have to take the civics test in the language of your choice.

2. At the time of filing your Form N-400, you are 55 years of age or older and have lived in the United States as a permanent resident for periods totaling at least 15 years. You do not have to take the English language test, but you do have to take the civics test in the language of your choice.

3. At the time of filing your Form N-400, you are 65 years of age or older and have lived in the United States as a permanent resident for periods totaling at least 20 years. You do not have to take the English language test, but you do have to take the civics test in the language of your choice.

NOTE: If you qualify for an exemption from the English language test based on your age and how long you have lived in the United States as a lawful permanent resident, you should answer "Yes" to at least one question in Part 2., Item Number 13. of Form N-400."

While ILRC understands the desire to shorten the instructions for N-400 by removing more specific information regarding the age and residency exemptions to the English test and directing applicants to the website, it would be preferable to instead move this information to an *Appendix* where it is still accessible in the instructions themselves. Those who would need to access information regarding these exemptions are (a) likely more limited in English due to their age and desire for an exemption and (b) at least over 50 years of age if not over 65, meaning the extra step of navigating the USCIS website may prevent or hinder them from understanding their eligibility for these exemptions. For instance, Pew Research reports that one-third of adults ages 65 and older say they never use the internet, and roughly half say they do not have home broadband services.[18] The age exemption is particularly important in light of the COVID-19 crisis, as any exemption that allows elderly applicants to avoid in-person contact is essential to limit the spread of a virus that has infected nearly 30 million people and caused the death of over half a million in one year.[19] Increased age is one of the top risk factors for hospitalization due to COVID-19, and eight out of ten reported deaths have been adults over the age of 65.[20] Even with vaccine distribution, as of March 2021 the majority of counties in the country continue to experience "Substantial" to "High" levels of community transmission.[21] The ILRC is also concerned that USCIS is problematically prioritizing the inclusion of information regarding bars and disqualifications for naturalization (excessively at times, as discussed in other sections of this comment) while striking information that would help educate applicants on how to successfully apply for naturalization.

14. Page 15, How To Fill Out Form N-400, return section on Early Filing. While ILRC acknowledges that information regarding early filing was deleted from this location and moved to Page 10, we are concerned that this important information will be missed and buried among other more general information. To ensure that applicants are aware that they may file early but also that filing too early will cause their application to be rejected, we suggest including "Early Filing" in this relevant section on filling out the form. This clarity is particularly important considering the

processing backlog for Form N-400, as it is essential for applicants to apply as early as possible to ensure their application is processed on time.[22]

15. Page 15, Evidence, make the following changes:

    "Provide the evidence listed in the General Eligibility Requirements and Specific Instructions sections of these Instructions. At the time of filing, you must submit all evidence related to your specific claim to eligibility for naturalization as requested with your Form N-400 application. If you fail to submit required relevant evidence, USCIS will issue Requests for Evidence (RFEs) to applicants to request missing evidence. If an applicant fails to respond to or provide responsive documents in response to an RFE may deny your application for failure to submit requested evidence or supporting documents in accordance with 8 CFR 103.2(b)(1) and these Instructions."

    The language in regard to the evidence required of an applicant is too broad, as not every applicant will need to provide all the evidence listed in the General Eligibility Requirements and Specific Instructions as the current wording seems to indicate. For instance, an applicant who did not gain lawful permanent residency through a spousal sponsorship and is not applying for naturalization through such a sponsorship has no need to supply the extensive documentation of their current and previous marriages. There is no need to create burdensome evidentiary requirements that are not necessary to determine eligibility for naturalization of a particular applicant, increasing work, time, and expenses for the applicant and increasing adjudicative burden for USCIS.

    USCIS's current language is also much too punitive in terms of reserving the right to immediately and without the issuance of an RFE, deny an individual's application if some evidence is missing. The logical conclusion of this new language is that USCIS could conceivably deny an entire application if a single piece of evidence is missing, which would be an extremely unfair result for applicants who spend significant amounts of money on the filing fee. The above language would clarify that USCIS should send an RFE or engage in other attempts at communication with the applicant before denying an application for missing evidence.

16. Page 16, Fee Waiver, make the following changes:

    "You may be eligible for a fee waiver under 8 CFR 103.7(c). A fee waiver waives both the application and biometrics fee."

    The existing instructions fail to clarify that a fee waiver waives both the application fee and the biometrics fee. The above language addresses this deficiency by clarifying that both fees are waived.

17. Page 17, Item Number 15, Exceptions to the English Language Test, make the following changes:

    "**Item Number 15. Exceptions to the English Language Test.** Depending on your age and the length of time you have been a lawful permanent resident, you may not be required to take the English language test. Refer to the "Exemptions From the English Language Test on page [page number] in the Appendix for additional information on age and residency requirements. ~~Naturalization Testing and Exceptions in the General Eligibility Requirements section of these Instructions for information on exceptions.~~"

18. Page 18, Part 3, Accommodations for Individuals with Disabilities, make the following changes:

    "NOTE: All domestic USCIS facilities are wheelchair accessible and must make effective accommodations for the applicant's disability under the Rehabilitation Act of 1973. However,

in Part 3., Item C. in Item Number 1. of this application, you can indicate whether you use a wheelchair. This will allow USCIS to better prepare for your visit."

Under the Rehabilitation Act of 1973, USCIS must make an effective accommodation for an applicant's disability and cannot transfer the accommodation burden back to the applicant.[23] The proposed language would ensure that applicants know they can affirmatively contact USCIS to secure accommodations for other disabilities.

19. **Page 18, Part 3, Accommodations for Individuals with Disabilities, return following note regarding LEP individuals:**

    "NOTE: USCIS also ensures that limited English proficient (LEP) individuals are provided meaningful access at an interview or other immigration benefit-related appointment, unless otherwise prohibited by law. LEP individuals may bring a qualified interpreter to the interview."

    The proposed form instructions delete the above note from the instructions. If USCIS is committed to providing meaningful access for LEP applicants, this note provides important information for applicants who may need language assistance or to procure their own. Though the naturalization testing involves an English language requirement, there are also specific exemptions for applicants of a certain age and residency as well as certain medical or disability impairments, meaning that applicants eligible for naturalization may well be LEP individuals and require such assistance.

20. **Page 19, Part 7, Biographic Information, eliminate all racial and ethnicity items.** As stated above, USCIS should strike the collection of ethnic and racial information on the application form and instead collect it at subsequent biometrics appointments. Perception and understanding of race and ethnicity categories vary across countries and cultures, which can result in great difficulty for applicants from cultures with different conceptions of these categories than the United States. Additionally, there is no explanation of how to answer the questions if the applicant does not identify with the categories on the form. This information collection also pre-dates the new system of biometric collections, making these questions moot. For use in biometrics and background checks, USCIS could better collect this information at the biometrics appointment where applicants can ask clarifying questions. At a minimum, USCIS should clarify how to answer for those that do not fit the established categories, as it clarifies how to describe one's height and weight.

21. **Page 20, Part 9, Time Outside the United States, make the following changes:**

    "**Item Numbers 1. - 3**. You may need to establish continuous residence and physical presence in the United States. You may also need to establish that you have not abandoned your LPR status. See the Lawful Permanent Resident Status and Continuous Residence and Physical Presence Requirements sections in the General Eligibility Requirements section of these Instructions. You must list all travel outside the United States since you became a lawful permanent resident or during the last 5 ~~10~~ years, whichever is shorter."

    As stated above, the statute requires an applicant to have continuously resided in the United States for at least five years as a lawful permanent resident, and requesting ten years of history for time spent outside the United States overburdensome and unnecessarily beyond statutory requirements. The standard for Form N-400 has been five years of evidence, meaning many applicants may not have kept records as far back as ten years in preparation for naturalization.

22. Page 20-21, Part 10, Information About Your Marital History, make the following changes:

> "Item Number 3. How many times have you been married? Your response should include annulled marriages, marriages to other people, and marriages to the same person. ~~your current marriage, any marriages before or during your current marriage, marriages in the United States, marriages in other countries, annulled marriages, civil marriages, customary or religious marriages, marriages to other people, and marriages to the same person, whether or not the marriage was registered with a government.~~"
>
> . . .
>
> "Item Number 8. How many times has your current spouse been married? Your response should include your current marriage, any marriages before or during your current marriage, marriages in the United States, marriages in other countries, annulled marriages, civil marriages, customary or religious marriages, marriages to other people, and marriages to the same person, whether or not the marriage was registered with a government)..~~If your current spouse has been married before, provide the requested information about your current spouse's prior spouse, including your current spouse's prior spouse's full legal name, current immigration status, date of birth, country of birth, country of citizenship or nationality, date of marriage with prior spouse, date marriage with prior spouse ended, and how the marriage with the prior spouse ended. Your response should include annulled marriages, marriages to other people, and marriages to the same person.~~ If your current spouse had more than one previous marriage, use the space provided in Part 16. Additional Information to provide the information requested. If your spouse was married to the same person more than one time, provide the requested information about each marriage separately."
>
> . . .
>
> "Item Number 9. If you were married before, provide the information requested in Item Number 9. Provide information about your prior spouse including their full legal name~~,~~ ~~immigration status, date of birth, country of birth, country of citizenship or nationality~~, date of your marriage with your prior spouse, date your marriage with your prior spouse ended, and how your marriage with your prior spouse ended."

As stated above, USCIS should reduce the amount of information regarding past spouses and a current spouse's prior spouse. These questions may be a particular burden for survivors of domestic violence, whose past abuse may make it impossible to obtain the required information, or force an applicant or their spouse to contact a formerly abusive partner to obtain such granular information. Requiring an applicant to attain details of their spouse's previous spouse is a clear burden to the applicant beyond what is required by statute or needed to determine eligibility. Additionally, providing such detailed information violates the privacy of the third party in question, particularly if they have no direct relationship to the applicant (such as a spouse's prior spouse). USCIS should also clarify that applicants should only include marriages that were valid in the country in which the marriage took place. Some applicants will have engaged in unions and ceremonies that would not make them "married" for immigration purposes, which can cause confusion for USCIS and applicants alike regarding which marriages are pertinent for immigration purposes.

23. Page 21-22, Part 11, Information About Your Children, strike section entirely. As stated above, all the information requested in this section does not pertain to naturalization eligibility and violates the privacy of the children themselves, who are not the applicants in question. This forces applicant parents to choose between applying for naturalization and disclosing potential private and sensitive third party information (such as the location of an undocumented child), which may

deter them from applying at all. Applicants may also have difficulty obtaining such information for every child, especially if for children who live outside the United States. If USCIS insists on collecting information on an applicant's children, it should only request: (a) the child's name; the child's A-number (if known); (c) and city, state, and country where the child is living, not specific addresses. USCIS may contend that the purpose for collecting the data on an applicant's children is to determine if any of the children might derive citizenship when the parent naturalizes. If this is the case, however, then it is sufficient to merely state in the instructions that in some instances one's child might be able to derive citizenship upon the naturalization of the parent followed by a citation to the policy manual, rather than insist upon the data of all the children.

24. Page 23, Part 15. Contact Information, Declaration, and Signature of the Person Preparing this Application, if Other Than the Applicant, make the following changes:

    "Item Numbers 1. - 8. This section must contain the signature of the person who completed your application, if other than you, the applicant. If the same individual acted as your interpreter and your preparer, that person should complete both Part 14. and Part 15. If the person who completed this application is associated with a business or organization, that person should complete the business or organization name and address information. Anyone who helped you complete this application MUST sign and date the application, but for applicants who receive help completing their Form N-400 at a group processing event (such as a citizenship workshop or fair), instead of the actual preparer or interpreter information, the sponsoring organization may provide its name, address and contact information in Part 14. (for interpreters) and Part 15. (for preparers)."

    As group processing events offer broad and group-level help to applicants in completing the N-400 form, in our experience there is often not a single person that may provide a signature as an interpreter or preparer. Applicants and event sponsors often have difficulty identifying the appropriate individual to provide a signature. The above language serves to provide USCIS with the appropriate information for the organizations in charge of such assistance so that they may be contacted if need be while solving the issue of a preparer signature at such events.

25. Page 24, What is the Filing Fee, make the following changes:

    "NOTE: Members and veterans of the U.S. armed forces filing under section 328 or 329 of the INA are not required to pay the filing fee or the biometric services fee. No filing fee is required if the applicant is submitting a fee waiver request, Form I-912, with Form N-400."
    "USCIS will reject your Form N-400 if you submit the incorrect fee or an incorrect payment method. USCIS also will reject your Form N-400 if you include payment for more than what you are required to pay. An applicant may submit a request for fee waiver, Form I-912, instead of including payment. If the fee waiver is approved, the application will be accepted for filing."

    The instructions should clearly state that those granted a fee waiver do not need to include payment for fees. Currently, the fee waiver is only mentioned at the end of the section on fees and there is little to no guidance—especially considering the extensive guidance on submitting payment—regarding how fee waiver requests interact with Form N-400. The above changes ensure applicants are aware that they are permitted to request a fee waiver at no impact to their eligibility.

26. Page 24, What is the Filing Fee, return section entitled "Biometric Services Fee Exceptions."

    "Biometric Services Fee Exceptions
    You do not have to pay a biometric services fee if:

1. You are 75 years of age or older; or
2. You are filing under the military provisions, Section 328 or 329 of the INA.
USCIS cannot accept a biometric services fee if you are not required to pay a biometric services fee.
Additionally, you do not have to pay for a biometric service fee if you receive a fee waiver."

The proposed instructions remove information regarding fee exemptions for biometric services. While this information is briefly described in other sections, we are concerned that it becomes buried and inaccessible in the current layout. In fact, on Page 25 the proposed instructions keep the statement that "there is no reduction available for the biometric services fee," but then neglect to mention the exceptions to the fee due to age or military service or even the fee waiver. An applicant could easily interpret that no exception exists when this is not the case. USCIS should keep its current, though passing, mentions of the exception in the instructions and add this section back to its original location under "What is a Filing Fee" to prevent confusion.

27. Page 26, Processing Information, make the following changes:

"Any Form N-400 that is not signed or accompanied by the correct filing fee and biometric services fee will be rejected. An applicant may submit a request for fee waiver, Form I-912, instead of including payment. If the fee waiver is approved, the application will be accepted for filing."

As on Page 24, the instructions should clearly state that those granted a fee waiver do not need to include payment for fees. Currently, the fee waiver is only mentioned at the end of the section on fees and there is little to no guidance regarding how fee waiver requests interact with Form N-400. The above changes ensure applicants are aware that they are permitted to request a fee waiver at no impact to their eligibility.

28. Page 26, Attorney or Representative, include information on pro bono legal support. As applicants may only obtain legal representation "at no expense to the U.S. Government," USCIS should provide guidance on where applicants may source legitimate, no-cost/low-cost legal services to assist them in the application process. Not only would applicants save on fees and likely enjoy better acceptance rates, but the applications themselves have less errors and allow for a smoother process for USCIS adjudicators.

29. Page 27, Penalties, make the following changes:

"If you knowingly and willfully falsify or conceal a material fact or submit a false document with your Form N-400, we ~~will~~ may deny your Form N-400 and may deny any other immigration benefit. In addition, you will face severe penalties provided by law and may be subject to criminal prosecution."

The current language states that USCIS "may" deny a Form N-400 due to false material or documents, and this language should remain. There is no statutory bar to naturalization for providing false information on the N-400 or in submitting the documents, but only when giving oral false testimony under oath with the subjective intent to obtain an immigration benefit. Denial determinations should continue to be made on a case-by-case basis, not through a blanket denial not anchored in statute.

30. Page 27, DHS Privacy Notice, clarify "public recognition program." The proposed instructions for Form-N400 include a new sentence stating that "DHS may also use the information you provide to determine your eligibility for any *public recognition program* at the discretion of the agency

[emphasis added].” It is not clear what is meant by a “public recognition program,” and considering the bad-faith anti-immigration policies of the past four years that involved using information from one source to determine eligibility for unrelated programs or benefits (the infamous public charge rule, for example), the ambiguity of this phrase may discourage eligible people from applying.[24] Thus, we suggest eliminating this phrase.

Thank you for your consideration of these comments. If you have questions or comments, please don’t hesitate to reach out to Alison Kamhi at akamhi@ilrc.org.

Sincerely,

/s/
Alison Kamhi
Supervising Attorney
Immigrant Legal Resource Center

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[4] Underlined text indicates an insertion. Strikethrough indicates a deletion. For ease of formatting and readability, this comment does not use block quotes, but rather quotation marks in conjunction with indents. All references to pages numbers within the Instructions for Form N-400 and Form N-400 itself are from the proposed versions of these documents.

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