OVERVIEW OF NATURALIZATION, THE LEGAL REQUIREMENTS, AND THE APPLICATION PROCESS

Graciela has been a lawful permanent resident since 1989. She became a lawful permanent resident through the amnesty program. She is a citizen of Mexico. She is very concerned about local politics and the negative manner in which some politicians are portraying immigrants. She wants to vote in elections and try to help change things. She also wants to help her mother immigrate.

What Is Naturalization?

Graciela can achieve both of her goals if she becomes a U.S. citizen. The process by which an adult lawful permanent resident can apply to become a citizen is called naturalization. In order to naturalize, a lawful permanent resident has to meet certain requirements that are set forth in the INA.

Considerations in Naturalizing

The idea of becoming a U.S. citizen means different things to different people. Some people are very proud of becoming citizens or want jobs that only citizens can hold. Others resist becoming a citizen for social, political, or cultural reasons. For many, the subject is an emotional one. You must recognize this when working with clients on naturalization cases. Talk with clients about the advantages and disadvantages of naturalization and listen carefully to their views on the subject. Sometimes things that may be an advantage to some people are a disadvantage to others. Ultimately, it is the applicant's decision whether or not to apply.

To help foster a discussion on naturalization, consider some of these potentially important advantages and disadvantages:[1]

Advantages

1. A citizen has the right to vote in elections. Elections help shape the policies of the U.S. government. The more new citizens vote, the more influence they will have over elected officials and consequently over policies such as immigration, the rights of minority groups, and foreign affairs.

[1] For more information on this topic and for a sample explanation of the considerations in naturalizing, please see Chapter 2 of this manual.

2. Only a U.S. citizen has the right to hold public office and certain federal and state government jobs.

3. U.S. citizens can petition for more family members through the immigration system than can lawful permanent residents. In most cases the waiting lists are shorter in the categories available to citizen petitioners.

4. U.S. citizens cannot be denied entry to, nor deported from, the United States. U.S. citizens can lose citizenship only under very limited circumstances. However, lawful permanent residents always face the possibility of being denied entry to, or deported from, the United States.

5. U.S. citizens can leave the United States and live in another country for as long as they want without losing their U.S. citizenship. In contrast, lawful permanent residents who live outside of the United States can lose their status.

6. Traveling in some foreign countries may be easier for U.S. citizens.

7. U.S. citizens are entitled to some government benefits for which some permanent residents are not eligible.

Disadvantages

1. An applicant who decides to become a citizen of the United States may lose her citizenship in her native country. However, some countries allow dual citizenship. For more information on which countries allow dual citizenship, please see www.opm.gov/EXTRA/INVESTIGATE/is-01.PDF.

2. Some countries restrict foreign ownership of property. For example, an applicant who owns land in her home country may lose it if she becomes a U.S. citizen. Many applicants are aware of such laws. Together with the applicant, you should see if this could be a problem in her situation.

3. The naturalization process can be intimidating for applicants, unless they have helped friends or relatives through the process before. The CIS interview and examination, for example, might make some people very nervous. In addition, practicing for the English requirement may be time-consuming and cause concern for some people.

The Nine Basic Naturalization Requirements

To become a naturalized citizen, an applicant must meet nine basic requirements. These requirements can be found in the Immigration and Nationality Act (INA) §§ 312 through 337 and

Title 8 of the Code of Federal Regulations (CFR) §§ 310 through 331.[2] The nine requirements are that an applicant must:

- be a lawful permanent resident (see **Chapter 4**);
- be at least 18 years old (see **Chapter 12**);
- have good moral character, keeping in mind certain specific "bars" to naturalization (see **Chapter 6**);
- be able to read, write, and speak English (see **Chapter 7**);
- be able to demonstrate knowledge sufficient to pass a test on U.S. history and government (see **Chapter 7**);
- have been a permanent residence in the United States for at least five years (except in certain circumstances—see **Chapter 5**);
- never have disrupted the continuity of residence in the United States during any of the last five years nor abandoned her residence in the United States (see **Chapters 4** and **5**);
- have been physically present in the United States for at least half of the five year period (except in certain circumstances—see **Chapter 5**); and
- take a loyalty oath to the United States and be attached to the principles of the U.S. Constitution (see **Chapter 9**).[3]

Please note that these are the general naturalization requirements. The following chapters in this manual go through the requirements in detail and explain the exceptions where applicable. When a client wants to apply for naturalization, one of the first things the advocate should do is explain the legal requirements for naturalization. While this can be accomplished in a number of ways, it is important to strive to be thorough and clear. For an example of one way to explain the legal requirements to a client, please see **Chapter 2**, **§ 2.2**. Most clients find written explanations of naturalization helpful as well. For samples of such documents in English, Chinese, Spanish, and other languages, please see **Appendix 2-B**.

A group information session is often an efficient and effective method of explaining the requirements for naturalization. In such a setting, the potential applicants can listen to the requirements together and learn from each other's questions. Additionally, the advocate saves time because she doesn't have to explain the requirements to each person individually. For a more complete discussion of information sessions and group processing of naturalization applications, see **Chapter 10**.

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[2] Practitioners should become familiar with both the INA and 8 CFR when helping clients prepare naturalization applications. Often the INA and 8 CFR have analogous section numbers, and the CFR sections expand on what is in the INA. Thus if a practitioner finds a part of the INA which is relevant to her client's case, chances are she can find the relevant 8 CFR section under the same number as the INA section on the same topic. For instance, the requirements for good moral character can be found in INA § 316 and 8 CFR § 316.10.

[3] There are some exceptions to these requirements for several "Special Classes" of people who may be naturalized. Some of these exceptions are discussed in this manual in Chapters 5 and 12. For more information on these "Special Classes," see 8 CFR §§ 319 through 331.

PRACTICE TIP: The goal of the very first meeting with a client should be to make the legal requirements as clear as possible in order for the client to understand what needs to be proven and why. The better informed the client is, the better able she will be to help build the case, and the better she will perform during the naturalization interview with CIS. Setting forth the legal requirements before getting all the details of the case usually helps make discussions with the client more efficient and productive because the client understands why the different topics are being addressed. Additionally, it sets the tone for a relationship that recognizes that the client's input will be important. Rather than making the client guess why certain factors may or may not be relevant to his case, an explanation of the requirements will allow her to help determine what is important.

When explaining the legal requirements, these five tips might be useful:

1. Break down the legal requirements into small, easily understood sections.
2. Write down the requirements on paper as you explain them (being sensitive to whether or not the applicant is literate).
3. Discuss with the applicant the reasons for the requirements, so you both understand the law better.
4. Encourage the applicant to ask questions about the law.
5. Explain to the client the entire naturalization process (completing the application, attending English and civics classes and taking the English and civics exams, attending the CIS interview, and being sworn in) and how your office will handle the case at each phase.

After discussing the law with the applicant and together determining whether or not she qualifies, the two of you should discuss the reasons why she should or should not apply for naturalization. You both want to make sure that naturalizing will in fact help the applicant achieve her goals.

Lawful Permanent Resident Status

To apply for naturalization, an applicant must be a lawful permanent resident.[4] Lawful permanent residents should have an I-551 "green card."

An important exception to the rule that only lawful permanent residents can apply for naturalization exists for immigrants who served (or are serving) honorably in active duty with the U.S. armed forces during certain hostilities (i.e., certain times of war). They can be naturalized in many instances without becoming lawful permanent residents. The law requires that such veterans must have served honorably and in active duty during the requisite periods and that the

[4] INA § 318.

applicants must have been in the United States or the Panama Canal Zone, American Samoa, the Midway Islands (prior to August 21, 1959), the Swains Islands, or on board a public vessel owned or operated by the United States for noncommercial service when they joined the military. A list of the hostility periods (war periods) that qualify and more eligibility requirements are in **Chapter 4** and INA § 329.

Non-citizen nationals who owe permanent allegiance to the United States also fall into an exception. Generally, this exception only applies to people from American Samoa and the Swains Islands.

Certain other groups also fall within special rules related to lawful permanent residence for naturalization purposes:

- Filipino citizens who entered the United States before May 1, 1934, and have, resided here continuously will be deemed lawfully admitted for permanent residence to the United States for naturalization purposes;[5]
- any immediate relative of a U.S. citizen residing in the Commonwealth of the Northern Marianas Islands (CNMI) on November 4, 1986, qualifies for lawful permanent residence;[6]
- certain inhabitants of the Bonin Islands who entered the United States under applicable INA provisions before July 11, 1972 will be regarded as having been lawfully admitted to the United States for naturalization purposes;[7]
- refugees will be considered lawful permanent residents from their date of entry after they have been admitted and have adjusted their status to lawful permanent residence;[8]
- asylees will be considered lawful permanent residents one year before the approval date of their application for adjustment of status to lawful permanent residents;[9] and
- individuals who become lawful permanent residents under the Cuban Adjustment Act of 1966 receive retroactive residency to thirty months prior to the application date or the last arrival date into the United States, whichever comes later.[10]

WARNING: Advocates and clients must be thorough in examining the lawful permanent residence status of the naturalization applicant. If she violated her status as a permanent resident and was ordered deported or removed from the U.S. and/or was excludable or inadmissible upon reentry into the United States (see **Chapter 6**); committed fraud to obtain her residence in the

[5] INA § 326, 8 USC § 1437.
[6] INS Memorandum, James A. Puleo, *Operations Residence in the Northern Marianas by U.S. Lawful Permanent Resident*, (Apr. 14, 1994), discussed and reproduced in 71 *Interpreter Releases* 1482 (Nov. 7, 1994).
[7] *INS Interpretations*, 318.1(g).
[8] INA § 209(a)(2).
[9] INA § 209(b); see also 8 CFR § 209.2(f).
[10] Act of Nov. 2, 1966, Pub.L. No. 89-732, § 1, 80 Stat. 1161.

first place (see **Chapters 4** and **6**); or has abandoned her residence (see **Chapter 4**), she may no longer be a lawful permanent resident or might fall within the grounds of deportability. A naturalization applicant who falls into any of these categories could end up in deportation proceedings.

Age

An applicant must be at least 18 years old to apply for and to become naturalized.[11]

Special rules apply to minor unmarried lawful permanent resident children[12] of U.S. citizens to help them obtain certificates of citizenship under certain circumstances. For more information on this topic, please see **Chapters 4**, **5**, and **12** of this manual.

Also, special rules apply to individuals who have honorably served as members of the Selected Reserve of the Ready Reserve or in an active-duty status in the military, air, or naval forces of the United States during designated periods.[13] For more information, please see **Chapters 4**, **5**, and **12** of this manual.

Good Moral Character, Bars to Naturalization, Permanent Ineligibility for Citizenship, and Discretion

All naturalization applicants must demonstrate good moral character for the required residency period immediately prior to applying for naturalization.[14] For most applicants the period is five years, but if the applicant is married to a U.S. citizen, the period may be reduced to three years. Under certain circumstances, CIS can consider events before the five (or three) year period when deciding if the applicant has good moral character if the events shed light on the period in question.[15]

There are two ways an applicant can be denied naturalization for lacking good moral character. The applicant can be **statutorily** denied, that is, the applicant commits an act or falls into a category that is specifically listed as a disqualifying factor in the Immigration and Nationality Act. The applicant can also be denied in CIS's **discretion**, that is, the adjudicator feels that other "bad" things the applicant has done make the applicant undeserving of approval, even though the "bad" things are not on the list of automatic disqualifications. The statutory reasons for denying someone naturalization are listed in INA § 101(f) and incorporate some of

[11] INA § 334(b).
[12] It does not include stepchildren. For a complete definition of "child" under these regulations, see Chapter 12.
[13] INA § 329(b)(1).
[14] INA § 316(a)(3).
[15] INA § 316(e).

the acts listed in INA § 212(a). Many, but not all, of these acts are crimes. Although the reasons why someone can be found lacking in good moral character in CIS's discretion are broader, CIS must balance both the negative and positive aspects of the applicant's character when making such a decision.[16] For more information, see **Chapter 6**.

> **Example:** Emilio wants to apply for naturalization because he wants to vote and help his mother immigrate to the United States. He is behind in his court order to pay child support payments (although he has been paying some of the payments) and he was convicted of driving with a suspended license. Although the statute does not automatically bar Emilio from proving good moral character for naturalization, CIS could deny his case for discretionary reasons. Thus, the legal worker has to explain the meaning of good moral character to Emilio, and together they must discuss the positive equities Emilio may have to weigh against his conviction and being behind on his child support payments.
>
> After discussing the issue, Emilio told the legal worker that he attends church, completed his probation for his conviction (which included community service with a charity), is active in his labor union, and has been making small donations to the United Way. Additionally, Emilio said he would start paying the child support immediately, which he could not pay previously because he just started working again.

WARNING: Beware of applying for naturalization for clients who are removable for falling within the grounds of deportability or who were inadmissible when they made an admission (see INA § 101(a)(13) for a definition of admission) to the United States, even if they can show good moral character. In the course of investigating the naturalization application, CIS or ICE might discover those issues and initiate removal proceedings against your client. If this happens your client's application could be denied and your client could end up being deported. Remember, the grounds of deportability and inadmissibility include more areas than does the definition of good moral character, so a person might have good moral character but still be deportable or inadmissible. **Chapters 4** and **6** explain these issues in more detail.

> **Example:** Joe Smith, from Canada, became a lawful permanent resident in 1989 through the legalization program. In 1997 and again in 2012, Joe was convicted of petty theft, a crime involving moral turpitude. Thus, under INA § 237(a)(2)(A)(ii), Joe is deportable for having been convicted of two crimes involving moral turpitude after admission. If Joe applies for naturalization he probably would be denied under INA § 101(f) because he lacks good moral character (see **Chapter 6**). Additionally, he could be placed in removal proceedings as someone who is deportable for having been convicted of two crimes involving moral turpitude after admission. Although Joe is presently deportable and could be deported, he could, if placed in deportation proceedings, apply for a type of

[16] See *Torres Guzman v. INS*, 804 F.2d 531 (9th Cir. 1986); *Matter of Sanchez-Linn*, 20 I&N 362 (BIA 1991); *Matter of B-*, 1 I&N 611, 612 (BIA 1943).

relief from deportation called "Cancellation of Removal for Permanent Residents." Cancellation is for people who have been permanent residents for at least five years and have been living in the United States for at least seven years after having been admitted to the United States in any status. For more information on Cancellation of Removal, please see INA § 240A and the ILRC's manual, *A Guide for Immigration Advocates*.

In addition to the good moral character requirement, other temporary or permanent bars to naturalization are contained in the statute. A person with a removal order against her at the time she applies for naturalization cannot become a citizen. Additionally, someone cannot be naturalized if removal proceedings are pending against her. However, if removal proceedings are terminated, she can naturalize.[17] People who have been involved in certain political activities during the ten years prior to applying for naturalization might be barred from citizenship.[18] Certain actions, mostly connected with military service, can make a person permanently ineligible for U.S. citizenship. Ineligibility for citizenship is defined in INA § 101(a)(19).

For more information on good moral character, the bars to naturalization, the ways one can be permanently ineligible for citizenship, and discretion in naturalization cases, refer to **Chapter 6**.

Attachment to the Principles of the Constitution

INA § 316(a)(3) makes it a requirement for a naturalization applicant to be "attached to the principles of the United States Constitution" for the same period that she needs to be a lawful permanent resident (either five or three years). One may be denied citizenship for not being attached to the principles of the Constitution if she is hostile to the basic form of government in the United States, or does not believe in the principles of the Constitution.[19] This requirement is to some extent a combination of fulfilling the requirement of believing in, and taking, the loyalty oath (discussed in **Chapter 9**) and the political grounds discussed in the "Temporary Ineligibility to Naturalize" section of the good moral character requirement for naturalization (discussed in **Chapter 6**).

If an applicant is unwilling to bear arms due to religious or philosophical reasons, it will not necessarily indicate the applicant is not attached to the principles of the Constitution or well-disposed to the good order and happiness of the United States.[20] In a similar vein, unwillingness to vote, serve on a jury, or otherwise participate in government due to religious training or beliefs does not necessarily show a lack of attachment, if the individual sincerely holds those beliefs.[21]

[17] INA § 318. For more information on this bar, see Chapters 4 and 6 of this manual.
[18] INA § 313.
[19] See 8 CFR § 316.11.
[20] *Girouard v. United States*, 328 U.S. 61 (1946).
[21] *INS Interpretations* 316.1(h)(3)(iv).

English Language

An applicant must be able to understand English and read, write, and speak words in ordinary usage in the English language.[22] How well the applicant must speak, read, and write English may depend on who the CIS examiner is in the naturalization interview. But the level of reading and writing is supposed to be fairly simple.

An applicant's English ability will be tested in the following ways:

- Reading: The applicant must read one out of three sentences in a manner that indicates to the CIS officer that the applicant understands the meaning of the sentence.
- Writing: The applicant must write one out of three sentences in a manner that would be understandable as written to the CIS officer.
- Speaking: The applicant's ability to speak English is determined by the applicant's answers to questions regarding information on the applicant's Form N-400 that the CIS officer normally asks during the naturalization eligibility interview and the civics and U.S. history test that is normally given in English.

There are exceptions to the English requirement. Applicants who cannot learn English because of a physical, mental, or developmental disability can apply for a disability waiver. There are other exceptions for elderly applicants who have been lawful permanent residents for a long time. If an applicant is over 50 years old, and has lived in the United States for at least 20 years since becoming a lawful permanent resident, or is over 55 years old, and has lived in the United States for at least 15 years since becoming a lawful permanent resident, she is not required to speak, write or read in English.[23] She will be tested on U.S. history and government in her own language. For more information on the English language requirement and these exceptions, please see **Chapter 7**.

U.S. History and Government

An applicant must understand the fundamentals of U.S. history and the principles and form of government in the United States.[24] Most applicants take classes in their communities to learn English and U.S. history and government for the naturalization test. CIS administers a test comprised of questions chosen from a bank of 100 history and government questions. CIS chooses the questions on each applicant's history and government test from this bank of 100 questions. For copies of the 100 questions in different languages, please see **Appendix 7-A**. The CIS officer will ask the applicant up to 10 of the 100 civics questions. In order to pass the civics

[22] INA § 312(a)(1).
[23] INA §§ 312(b)(2)(A)&(B).
[24] INA § 312(a)(2).

portion of the naturalization test, the applicant must correctly answer 6 out of 10 questions. Discussing some of the questions with the applicant is a good idea. This gives the applicant a better idea of how the requirements fit together and provides an opportunity to practice answering these questions. For more information on this topic please see **Chapter 7**.

CIS will provide "special consideration" when administering the U.S. history and government test for applicants who, on the date of filing their naturalization applications, are over 65 years old and have been lawful permanent residents for at least 20 years. Instead of having to study 100 questions about U.S. history and government, people who fall under the 65/20 category only have to study an easier 20-question set (see **Appendix 7-C**). The general rule is that they must get 6 out of 10 questions correct during their interviews.

Because applicants who are over 65 years old and have lived in the United States for at least 20 years also will qualify for the age exemption from the English requirement, they can attend a naturalization interview and answer questions in their own language.

Although in the past there were no exceptions to the requirement of having a knowledge and understanding of the history and government of the United States, in 1994 Congress created a waiver of the history/civics requirement for applicants who, because of physical, mental, or developmental disability, cannot pass the history and government exam. For more information, please see **Chapter 7**.

Residence in the United States

An applicant must have resided in the United States for at least five years as a lawful permanent resident.[25] Essentially this means she must have been a lawful permanent resident and made the United States her home for the five years immediately prior to applying for naturalization. In addition, she must have lived in the CIS district or state where she files the petition for at least three months.[26]

> **Example:** Josefina obtained status as a lawful permanent resident in 2013. She will not be eligible for naturalization until she has been a lawful permanent resident for five years. Thus, in 2018 she can qualify for naturalization.

There are exceptions to the five-year requirement. The spouse of a U.S. citizen only needs to have lived in the United States for three years as a lawful permanent resident. She must have been married to the same U.S. citizen for three years and the U.S. citizen spouse must have been a citizen for the entire three years. The marriage must be valid, and the couple must have

[25] INA § 316(a)(1).
[26] INA § 316(a)(1).

lived together for the three years immediately before the date of the filing of the application and naturalization interview.[27]

> **Example:** Graciela obtained her status as a permanent resident in 2013. In 2014 she married someone who had been a U.S. citizen for all of his life. Assuming they remain married and living together for three years, Graciela will become eligible for naturalization in 2017, three years after her marriage. If she were to get divorced before applying for naturalization, then she would have to wait until 2018, the full five years before qualifying for naturalization.

Refugees and asylees are also subject to a special rule. Refugees are not eligible for lawful permanent resident status until they have been in the United States for a year, and asylees cannot apply for lawful permanent resident status until one year after their asylum applications are approved. Under rollback, a refugee can start counting her five years from the time she arrived in the United States, and an asylee can start counting from the year before her application for lawful permanent residence was approved.[28]

There are exceptions to the five-year residence requirements for people who served or serve in the military and for people who obtained their lawful permanent residence status under the Violence Against Women Act (VAWA) immigration program. See **Chapter 5** of this manual for more information on the residence requirement and these exceptions.

Physical Presence in the United States

An applicant must have been physically present in the United States for at least half of the five-year residence period discussed above.[29] One applying as the spouse of a U.S. citizen only needs to have been here for half of three years instead of half the five years.[30] If an applicant cannot meet this requirement, she must wait and submit a new application when she does qualify. If she is denied on this basis, then she can wait and submit a new application when she meets the requirement. For more information on this topic, please see **Chapter 5**.

> **Example:** In the examples discussed in **§ 3.10** above, Josefina must be physically present in the United States for at least 30 months (half of her required residency period of 60 months) in order to qualify for naturalization. Meanwhile, Graciela needs to be physically present in the United States for at least 18 months (half of her required residency period of three years) because she is married to a U.S. citizen.

There are exceptions to the 30-month physical presence requirements for people who served or serve in the military and for people who obtained their lawful permanent residence

[27] INA § 319(a); 8 CFR § 319.1(a)(3).
[28] See 8 CFR §§ 209.1(a), 209.2(f).
[29] INA § 316(a)(1).
[30] INA § 319(a).

status under the Violence Against Women Act (VAWA) immigration program. See **Chapter 5** of this manual for more information on these subjects.

Disruption of Continuous Residence (Breaking the Continuous Residence for Naturalization Purposes)

To qualify for naturalization, an applicant must show she has not disrupted the continuity of her residence in the United States.[31] For an applicant to show she has not disrupted her continuous residence, she must show that she has continuously maintained her residence in the United States for the five-year period before applying for naturalization. This is an issue for people who have spent long stretches of time outside the United States. If a person has left the United States for fewer than six months, then she will be found not to have disrupted the continuity of her residence.

If an applicant has left the United States for one year or more, she automatically will be found to have disrupted the continuity of her residence. There are exceptions for people in the military,[32] certain employees and contractors of the U.S. government, and certain people working for American corporations and public international organizations doing business abroad.[33] The applicant's spouse, parents, and children can qualify for some exceptions through the applicant.[34] Additionally there are exceptions for certain religious workers.[35]

If a naturalization applicant is found to have disrupted the continuity of his residence because he was absent for one year or longer, he will not qualify for naturalization. He must wait four years and one day (or two years and one day if he is married to a U.S. citizen) from his return to the U.S. after his absence to reapply for naturalization.[36]

> **Example:** Mauro was gone from the United States for a 13-month period. He left the United States on July 13, 2012 and returned to the United States on August 15, 2013. Because of this absence he disrupted the continuity of his residence, and he must wait four years and one day from when he returned to the United States before he can apply for naturalization. Thus, Mauro can apply for naturalization on August 16, 2017.

Depending on the circumstances of the absence, CIS also can deny someone for breaking the continuity of residence if she was gone from the United States for more than six months and

[31] INA § 316(b). In September 1993, the INS changed the term from "abandonment of residence for naturalization purposes" to "disruption of continuity of residence." 8 CFR § 316.5(c)(1)(i). Since the INA still refers to this concept as abandonment of residence for naturalization purposes, it is best to be familiar with both terms and to note that both terms mean the exact same thing.
[32] INA § 328; 8 CFR § 316.5(b)(1).
[33] INA § 316(b).
[34] INA § 316(b)(2); 8 CFR § 316.5(d)(1).
[35] INA § 317.
[36] 8 CFR § 316.5(c)(1)(ii).

less than one year at one time during the five-year statutory period. The regulations state that if someone has left the United States for more than six months at one time but less than one year, there is a presumption that the person will be found to have disrupted the continuity of her residence unless she can prove she did not disrupt it.[37] Please note that, unlike for absences of one year or more, disruption of residence for absences of more than six months and less than one year is not automatic. In fact, in many CIS offices it is actually rare that one would be denied naturalization for an absence of less than one year. If CIS denies someone for breaking the continuity of residence based on a 6–12 month absence instead of a one-year absence, it is unclear how long the applicant will have to wait before she can re-apply for naturalization. In such an instance, many feel that she will need to wait five years before she can re-apply for naturalization. Others feel she should only have to wait until enough time passes that she no longer has an absence of six months during the statutory period of three or five years.
See **Chapter 5** for more information.

> **Example:** Mauro was gone from the U.S. for a 13-month period. He left the U.S. on July 13, 2010 and returned to the U.S. on August 10, 2011. Because his absence was for more than one year, the CIS officer denied his naturalization application due to the fact that the officer determined that Mauro disrupted the continuity of his residence. Maura

[37] INA § 316(b).

will have until August 11, 2015 (four years a day from his return to the United States) before he can reapply for naturalization.

For more information on continuity of residence, please see **Chapter 5**.

WARNING: A naturalization applicant must be very cautious if she has prolonged absences. Some absences from the United States can cause CIS to determine that an applicant abandoned her residence. Anyone who abandons her residence may be subject to removal proceedings and lose her status as a permanent resident. The disruption of continuity of residence test is different than the test for abandonment of lawful permanent resident status. See **Chapter 4** for more information on the test for abandonment. Thus, prolonged or repeated absences must be carefully reviewed before applying for naturalization.

Belief in the Principles of the U.S. Constitution and Oath of Allegiance

An applicant must swear under oath that she is attached to the principles of the U.S. Constitution[38] and will support and defend the laws of the United States.[39] If required by law, an applicant must be willing to fight in the United States Armed Forces and perform noncombatant or civilian service for the United States.[40] She also must renounce or give up her allegiance to any other country. This does not, however, mean she automatically has to give up her passport from or citizenship of her native country. Although the United States does not encourage people to be dual citizens, the United States does not prohibit dual citizenship. The United States does not prohibit traveling on two passports. Some countries, however, may prohibit dual citizenship and force a newly naturalized U.S. citizen to give up her passport[41]

There is a waiver of the oath for people with certain disabilities. For more information on the oath and the waiver of the oath, see **Chapter 9**.

Overview of the Application Process

To apply for naturalization one must submit a Form N-400, Application for Naturalization, two photos, a copy of both sides of the applicant's green card, a check or money order for the appropriate fee made payable to the U.S. Department of Homeland Security, and any other documents that CIS requests to prove eligibility (see **Chapter 8**).

[38] INA §§ 316(a)(3) and 337.
[39] 8 CFR § 337.1(a).
[40] 8 CFR § 337.1(a).
[41] For additional information on the laws in some foreign countries regarding dual citizenship, see www.cuny.edu/about/resources/citizenship/us-citizenship/DualCitizenship.html.

It is important to encourage applicants to complete the first draft of their own naturalization applications to enable them to become familiar with the questions that will be asked during their interview. Practitioners can help by giving their clients copies of N-400s translated into the client's native language. For a copy of the naturalization application in Spanish, please see **Appendix 8-B**.

After submitting the application packet, CIS will send the applicant a notice for a fingerprint appointment. Applicants who are 75 years or older at the time they file their application do not have to be fingerprinted.[42] Those who live overseas will be instructed to have their fingerprints taken at a U.S. consular office. CIS will schedule the applicant for an interview. Depending on the local CIS district, the interview could take place between three to six months or more after submission of the application. In some circumstances, depending on if there is a backlog of applications, it could take longer. It is important for the applicant to attend the interview. If the applicant has to reschedule the interview, it will take more time to go through the naturalization process. If an applicant cannot attend the interview, she must contact CIS beforehand otherwise CIS can and often will administratively close the applicant's case.

During the interview, the CIS examiner will question the applicant about the information on the naturalization application and test the applicant on English and U.S. history and government. If the application is approved, she will receive a notice from CIS to attend a swearing in ceremony and obtain her certificate of naturalization. Only after the swearing in ceremony does the applicant become a U.S. citizen. This means that the applicant must wait until after the swearing in ceremony to apply for a U.S. passport and register to vote in elections in the United States. For more information on the application process, please see **Chapters 8**, **9**, and **10**.

It is important to discuss the entire naturalization process with an applicant at the outset of the relationship. By keeping the applicant informed about the process, she can remain up to speed on procedural steps and is better able to contribute to the success of the case.

PRACTICE TIP: Group Processing. If you often do more than a couple of naturalization applications in a week, you may want to work with clients in groups. Group processing of naturalization applications allows your agency to be more efficient when helping clients apply for naturalization. Clients do much of the work in this method, which saves you time and can result in a stronger case. Clients will learn what information CIS is looking for, and thus will be better prepared for their interviews. Group processing allows clients to work together and learn from each other as well as from the advocate. It helps develop valuable skills, such as how to fill out forms and keep records, which assists clients with other parts of their lives. For more information on how to do group processing workshops, please see **Chapter 10**.

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[42] USCIS, *A Guide to Naturalization*, M-476 (rev. Mar. 2012), at 35, available at www.uscis.gov/files/article/M-476.pdf.