A STEP-BY-STEP GUIDE TO COMPLETING THE NEW N-400

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On April 1, 2024, United States Citizenship and Immigration Services ("USCIS") released a new version of Form N-400, Application for Naturalization. The new edition includes some welcome changes to the form, including a reduction in the length of the application from twenty pages to fourteen. It also removed or made optional some questions that were often repetitive or irrelevant for many applicants. For example, the new form only asks for details about the applicant's former spouses if they are applying for naturalization based on their marriage to a U.S. citizen. The revised N-400 condenses many questions and spaces for responding. Also, many sections of the form have been moved and reorganized. Attorneys and advocates may need to reorganize or revise intake questionnaires, document lists, and instructions to conform to the new version of the N-400. USCIS also made substantial changes to the Form N-400 Instructions, which should be reviewed carefully prior to starting the form and will provide helpful information to guide you as you fill in the form.[1]

The new version of Form N-400 is divided into 16 parts. Below is a review of the revised N-400 application, including information about what has changed and possible problem areas for some applicants.

At the top of each page of the application, the applicant needs to write their Alien Registration Number, or A-Number.[2] This helps USCIS in case the application pages are separated. The updated form once again includes a barcode at the bottom of each page, which had been left off the previous version.

Weighing the pros v. cons of online filing

USCIS has offered online filing of the N-400 for several years. However, with the release of the new fee schedule, USCIS is now creating extra incentive for applicants to file the N-400 online—a filing fee discount.[3] USCIS will continue to accept applications by mail for those

[1] For access to the most current form instructions, see USCIS, *Instructions for Application for Naturalization* (Apr. 1, 2024), https://www.uscis.gov/n-400 [hereinafter "USCIS, *Naturalization Application Instructions*"].
[2] If the applicant does not have an A-number, for example, because they are a U.S. national, such as those from American Samoa and Swains Island, the applicant should write in N/A in the A-number sections.
[3] *See* G-1055, Fee Schedule, https://www.uscis.gov/g-1055.

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applicants who choose this option.[4] Some applicants, including those submitting a fee waiver or reduced fee application with their N-400, are required to apply by mail.

Advocates will need to weigh the benefits of online filing against the challenges it may present. Factors to consider when deciding whether to file online include:

1. **Cost**—Applicants who file online will pay a discounted filing fee, a savings of fifty dollars per applicant. They will also save the cost of postage required to submit it by mail. Applicants who do choose to file online may pay the filing fee by credit or debit card or provide their bank routing and account numbers to have money taken directly from a U.S. bank account. If an applicant wishes to pay by check or money order, they will need to file by mail.
2. **Issuance of Notices**—While filing the N-400 application online does not change the overall processing times, it will allow applicants to have immediate access to a filing receipt. N-400 receipt notices automatically extend the validity of the applicant's green card for twenty-four months. Applicants will also receive other USCIS notices about the status of their application more quickly through their online account.
3. **Computer and Internet Access**—Applicants who do want to file online must have access to a computer and the internet, as well as an email account. The applicant must first create an online account with USCIS. After confirming the creation of the account through email, the applicant will be able to enter their account to complete and submit the application online.[5] Applicants will also need the ability to scan and upload evidence to their online account. Advocates who need to file a Form G-28 with a client's N-400 will also need a USCIS account to coordinate the filing of the application online.[6]
4. **Group Processing**—Advocates who assist naturalization applicants through clinics and workshops will need to evaluate current practices and available resources to determine if transitioning from a paper-based workshop model to an online one will work for their organization and the participants.

Again, at this time USCIS is unfortunately not accepting online applications from people who are requesting a fee waiver or reduced fee.

NOTE: Individuals may complete the application on a computer or by hand. If handwritten, it should be done in black ink.[7] USCIS accepts hybrid forms—forms that have both typed and handwritten information. However, USCIS recommends applicants use one method or the other. Where the field or dropdown menu does not allow applicants to write in or indicate the most appropriate answer, the applicant may leave that section blank and handwrite their

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[4] For the most up-to-date information on where to mail the N-400 application, as well as information on electronic filing, see USCIS, *Naturalization Application Instructions*.
[5] For more guidance about how to submit an application online with USCIS, see https://www.uscis.gov/file-online.
[6] For more information about USCIS online accounts for attorneys and Department of Justice (DOJ) accredited representatives, see https://www.uscis.gov/file-online/online-filing-for-attorneys-and-accredited-representatives.
[7] USCIS, *Naturalization Application Instructions* at 5.

answer on the form after printing it. Applicants should avoid highlighting or crossing out information or the use of correction fluid or tape on the form.[8]

The revised N-400 form instructions require that applicants submitting additional information, such as information that does not fit within the space given on the form or an explanation to a question, do so in Part 14, Additional Information, included in page 13 of the form. The applicant must provide at the top of the page their name, their A-Number (if applicable), the page number, and the part and item number to which the information refers.[9]

Note: Throughout this practice advisory we refer to chapters of our manual entitled, *Naturalization and U.S. Citizenship: The Essential Legal Guide.*

Part 1. Information About Your Eligibility

This part asks the applicant to check the basis upon which they are applying for naturalization. The revised N-400 includes more options for eligibility to choose from than prior versions of the form. It is very important that applicants check the correct category. During the interview, the USCIS adjudicator will ask them questions to make sure that they qualify on the basis they checked.

If the applicant checks Items B, C, D, E, F, or G, they will need to provide USCIS with additional documentation to prove they are eligible under that item. All other applicants will check Item A, for general eligibility.

- **Item B:** An application based upon marriage to a U.S. citizen for three years. INA § 319(a) allows such applicants to become eligible to naturalize after just three years of lawful permanent resident status. Filing under this provision requires proof that the marriage and the U.S. citizen spouse's citizenship are valid. An applicant must provide the naturalization certificate or U.S. birth certificate of the U.S. citizen spouse and a marriage certificate. If either spouse was previously married, the applicant must produce documents showing proper termination of the earlier marriage(s).
- **Item C:** An application under the Violence Against Women Act for certain lawful permanent residents who are the spouse, former spouse, or child of an abusive U.S. citizen. INA § 319(a) allows them to apply for naturalization after three years and removes the requirement that they live together with their abusive spouse or parent.[10]
- **Item D**: INA § 319(b) allows certain lawful permanent residents to naturalize if they are the spouse of a U.S. citizen who is employed by certain organizations overseas.
- **Items E-F**: An application based on military service will require documentation of qualifying service. This includes Form N-426 as well as copies of documents such as

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[8] *Id.*
[9] *Id.*
[10] For more information about the VAWA naturalization process, see USCIS, *Naturalization Application Instructions* at 13.

military orders or certificate of release.[11] A list of evidence can be found in the N-400 instructions.[12]

- **Item G:** This part includes several categories including noncitizen nationals.

Part 2. Information About You

The N-400 requires very specific information about the client's name(s).

Item 1 asks for the applicant's current legal name. This means the name that is on the applicant's birth certificate or the name the applicant has legally adopted through a legal name change or through marriage. If the applicant has married or changed names since becoming a permanent resident, their legal name might be different than their name as it appears on their green card or birth certificate. Applicants are required to provide proof of the legal name change with their application or at the time of interview.

Item 2 asks for other names that the applicant has used; for example, an applicant should write their maiden name here if they use their married name now. The applicant should also include any nicknames or aliases. Also, include any variations in spelling or misspellings that the applicant has used.[13]

Item 3 provides a space for the applicant to write the name that they would like to use in the future if it is different from their present legal name. When an applicant naturalizes, they have the opportunity to legally change their name as part of the naturalization process through the federal court if, and only if, the federal district court conducts the oath ceremonies in the USCIS district in which the applicant is applying for naturalization. Oath ceremonies conducted by the courts are called judicial ceremonies. In many places, USCIS conducts administrative ceremonies instead of court ceremonies. You must check to see if the federal district court in your USCIS district still conducts judicial oath ceremonies. If not, the applicant cannot change their name as part of the naturalization process. Also, USCIS cannot process name change requests for members of the military or spouses who are naturalizing overseas. For information on how to change an applicant's name in situations where they cannot change it through the naturalization process, please refer to the rules in the state in which the applicant resides.

Item 4 asks for the applicant's USCIS online account number. Unless an applicant has ever electronically submitted a benefits request to USCIS, such as Form I-90, Application to Replace Permanent Resident Card, they will not have a USCIS online account number. An applicant can find their USCIS online account number by logging into their online account and going to their profile page. An applicant also may have received a USCIS Online Account Access Notice issuing an online account number if they submitted a paper form via a USCIS Lockbox. The online account number can be located at the top of the notice. If an applicant

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[11] For more information about the naturalization process for military personnel, see USCIS, *Naturalization Through Military Service*, https://www.uscis.gov/military/naturalization-through-military-service.

[12] USCIS, *Naturalization Application Instructions* at 23–25.

[13] However, if Immigration and Customs Enforcement (ICE), law enforcement, or another government agency misspelled the applicant's name, but the applicant never used that name or spelling, do not list it. If a different name or a misspelling appears on the applicant's rap sheet, then the applicant may want to list that name but indicate on the application that it is not a name used but it shows up on the applicant's records.

has an online account number, they should write it in the space provided. Otherwise, write in "N/A."

Item 5 asks the applicant to select their gender. In a welcome change, the revised N-400 allows an applicant to select Male, Female, or Another Gender Identity. The addition of the "Another Gender Identity" or X gender option reflects a change in USCIS policy regarding gender options on immigration forms. Applicants who select this new gender option will have "X" listed as their gender on the naturalization certificate. Applicants are not required to provide any evidence to support their gender selection, including the X gender option.[14] The gender selected by the applicant does not need to match their gender on their permanent resident card or any other identity documents.[15] In addition, a person is able to request a change in gender on their certificate of naturalization at a later date.[16]

Item 6 asks for the applicant's date of birth in the format MM/DD/YYYY. If any applicant has ever used another date of birth, it should be listed in Part 14, Additional Information.

Item 7 asks for the date the applicant became a permanent resident in the format MM/DD/YYYY. The date the applicant became a lawful permanent resident is not always very clear. Many of the older versions of the I-551 cards (green cards) list it on the back in the middle of the first line of what looks like code. You will see something like "P26 LAS 890714 245 9099001001." The date that person was admitted to lawful permanent resident status is July 14, 1989—found after the three letters (for the port where admitted), which are the second group in the sequence, and written YYMMDD. Some applicants who became lawful permanent residents through the amnesty program have green cards that list at the top the date they were admitted to *temporary* residence. The temporary residence date is *not* the correct date to list on the N-400. Instead, look to the date listed in the sequence of numbers described above. Some green cards have the date of admission listed on the front instead of the back, including newer green cards.

Item 8 asks for the applicant's country of birth. The applicant must write the name of the country where the applicant was born, even if the country no longer exists. If the country where they were born no longer exists (e.g., Yugoslavia), list it anyway.

Item 9 asks where the applicant is a citizen or national presently. This could be the same country as in Item 8 or a different country. If the country no longer exists, list the current name of the country. If an applicant is a citizen or national of multiple countries, list every country in the space provided or in Part 14, Additional Information. If the applicant is stateless, list the name of the country as it currently exists where they were last a citizen or national.

Item 10 asks whether any of the applicant's parents (including adoptive parents) was a U.S. citizen before the applicant turned eighteen. If the applicant acquired or derived U.S. citizenship through a U.S. citizen parent, they are not eligible to naturalize because they are already a U.S. citizen.

If one or both of the applicant's parents is or are U.S. citizens, it is possible that the applicant is already a U.S. citizen too. Advocates should always screen for derivation and acquisition of

[14] U.S. Citizenship and Immigration Services Policy Manual (USCIS-PM), 1 USCIS-PM E.5(B)(2).
[15] *Id*.
[16] *Id*.

citizenship if there is any indication that the applicant may already be a U.S. citizen. The ILRC has quick reference charts to help advocates determine if an applicant has derived or acquired citizenship.[17] Please see **Chapter 14** for more information on this topic. More information is also available on the USCIS website and in the USCIS Policy Manual.[18]

Item 11 asks whether the applicant is applying for a waiver of the English and/or civics test based on the applicant's disability. Applicants applying for such waivers should submit Form N-648, Medical Certification for Disability Exceptions, as an attachment to their naturalization application.[19] Also, applicants should state their requests for such waivers in a cover letter attached to the N-400 application. For more information on the disability exceptions, please see **Chapters 8 and 9**.

Under federal law, USCIS must make reasonable accommodations (i.e., changes) to the naturalization process for applicants who have disabilities. For more information about this topic, please see **Chapters 9 and 11**.

Applicants may also qualify for an exception to the English test and to take the required civics test in their preferred language based on their age and how long they have been a permanent resident. This exemption is often referred to as the "55/15 or 50/20" rule. Likewise, the applicant may qualify for the easier history and civics exam offered to applicants over sixty-five who have been living in the United States for at least twenty years as lawful permanent residents. If an applicant qualifies for an exception to the English testing requirement, they may need to bring an interpreter to their naturalization interview. Note that the current version of Form N-400 no longer has specific questions regarding these exemptions; however, the exemptions still apply, so applicants and their representatives will need to screen for whether applicants qualify.

Item 12: The new edition of Form N-400 now allows applicants to request an original or replacement Social Security card. Applicants may also request that USCIS notify the Social Security Administration (SSA) of the applicant's naturalization or legal name change after they complete the oath ceremony. The SSA should automatically update their system to reflect the applicant's new status and name without the applicant having to visit a SSA office. In practice, the communication between USCIS and SSA has not been smooth. If applicants experience delays in the receipt of their new or replacement social security card or if they discover their status was not automatically updated after naturalization, they may wish to visit the local SSA office to inquire.

It is important that applicants only enter the valid social security number that was issued to the applicant. Applicants should *not* enter any fake social security numbers or social security numbers that were not specifically issued to them that they may have used over the years.

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[17] See ILRC, *Acquisition & Derivation Quick Reference Charts* (Jul. 19, 2022), https://www.ilrc.org/acquisition-derivation-quick-reference-charts.
[18] *See* USCIS, "Citizenship Through Parents," http://www.uscis.gov/us-citizenship/citizenship-through-parents; 12 USCIS-PM H.
[19] For the form and the instructions, see USCIS, *N-648, Medical Certification for Disability Exceptions*, http://www.uscis.gov/n-648.

Item 12c If the applicant does choose "Yes" in Item 12a, they must also select "Yes" here in order to provide consent for USCIS to share the applicant's information with SSA.

Part 3. Biographic Information

Information in this part will help the Federal Bureau of Investigation (FBI) conduct its criminal record search on the applicant, which is part of the good moral character determination.

For **Items 1 and 2**, the N-400 instructions provide definitions for each category.[20]

For **Items 3–6**, the applicant may use the information found on their driver's license or identification card. For **Item 3**, the applicant must list their height in feet and inches, not in meters or centimeters. For **Item 4**, the applicant's weight should be entered in pounds, not in kilograms. If the applicant does not know their weight, weighs under thirty pounds, or weighs over 699 pounds, then they should enter "000."[21]

Part 4. Information About Your Residence

The purpose of the residence section is to help the USCIS examining officer determine whether the applicant has actually lived in the United States for the required length of time to meet the continuous residence period (five years for most applicants, three years for those applying as the spouse of a U.S. citizen, and as little as one year for those applying under the military service provisions), the physical presence requirement, the three-month district residence requirement, and to determine if the applicant might have abandoned their residence (see **Chapters 4 and 5**). The adjudicator will ask the applicant at their interview about any gaps in the information they provide in this section. Note that some of those gaps can be explained by absences they will have listed in Part 8 (discussed more below), but it is important not to give the impression that they abandoned their residence during those absences. Any gaps at all should be discussed with an advocate before applying.

PRACTICE TIP: Many parts of the form require applicants to list dates, such as dates of employment or school and dates of travel outside of the United States. Often, applicants do not recall exact dates but may recall only the year or the month and year. For those completing the form online, ILRC recommends applicants enter the date electronically as the first of the month (e.g., "10/01/2023" to indicate October 2023) and write a short explanation in Part 14, Additional Information, explaining the date is an approximation. Those completing the form by hand should indicate the date is an approximation (e.g., "Approx. 10/2023") Note, however, that the N-400 instructions state that applicants should avoid writing outside the blank space provided for answers.[22]

In **Item 1**, list the address and dates lived at that address in the spaces on top. This question asks for the actual physical address where the applicant is living (do not provide a P.O. Box

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[20] USCIS, *Naturalization Application Instructions* at 10.
[21] *Id.*
[22] *Id.* at 5.

number).[23] In the chart below, list where the applicant has lived for the last five (for most applicants) or three years (for applicants applying as the spouse of a U.S. citizen). Start with the most recent address, then the one before it, and so on (i.e., reverse chronological order). It is okay to list an address here that is not the official address on file with USCIS. The purpose is to indicate actual residence, regardless of the more official mailing address. Also, the applicant should maintain a residence in the United States even if the applicant is working or visiting abroad. Thus, if the applicant lists a residence that is not within the United States, you should consider this a red flag (see **Chapter 5** for more information).

Item 2 asks if the mailing address and the home address of the applicant are the same. If so, the applicant should mark "Yes" and then skip to Part 5.

Item 3 requests the best mailing address for the applicant, if it is not the same as their residence. Sometimes, an applicant will prefer that their mail go to a more secure address than where they live, such as the address of a relative who has a more stable address or a P.O. Box.

PRACTICE TIP: If the applicant is living at a domestic violence shelter or received benefits under the Violence Against Women Act (VAWA), including U visa, T visa, or VAWA relief, the applicant does not have to provide the shelter address or actual home address if it is confidential or if the applicant does not feel safe providing it. Instead, they can say the address is confidential and provide only the city and state. If the applicant lived at a domestic violence shelter during the reporting period, they do not need to provide the address and can instead list just city and state of the shelter.[24] Yet, in the box that asks for mailing address, the applicant must provide a safe address where they can receive correspondences from USCIS.

Part 5. Information About Your Marital History

If an applicant is single and has never been married, they only need to complete **Item 1** and then they can move on to Part 6.

USCIS uses this information to determine whether a marriage that formed the basis of lawful permanent resident status (where gained by marriage to a U.S. citizen or lawful permanent resident) was valid and to determine whether an applicant really qualifies for the three-year residence rule (under certain circumstances, a spouse of a U.S. citizen may qualify for naturalization after only three years of lawful permanent resident status). If the applicant is applying as the spouse of a U.S. citizen [selected Item 1(B) in Part 1], they must check that their marital status is "married."

NOTE: The N-400 form includes "separated" as an option for applicants to indicate their current marital status. In this context "separated" means *legally* separated. This is important because if a marriage ended in divorce, *legal separation*, or death before or after the naturalization application is submitted, the applicant will not be able to receive naturalization benefits from

[23] Applicants experiencing homelessness may write "homeless" in the physical address space and provide the city, state, zip code, and country where they live in order for USCIS to schedule biometrics appointments and interviews at the correct location. *See* USCIS, *Naturalization Application Instructions* at 11.
[24] *See id.*

the marriage, such as being able to naturalize after three years. The three-year rule requires the marriage to be valid, with the parties living in "marital union"[25] during the three-year period. A *legal* separation breaks the marital unity.[26] See **Chapter 5** for more information.

Item 3 asks that applicants list the number of times they have been married. Applicants should include in that number their current marriage as well as any prior marriages, whether they occurred in the United States or another country, as well as marriages that have since been annulled.[27] USCIS now instructs applicants to include in this number "customary or religious marriages, whether or not the marriage was registered with a government," even though these marriages may not be valid under the laws of the country where they occurred or for U.S. immigration purposes.[28] Applicants should consult with an immigration attorney or DOJ accredited representative before filing if this description applies to one of their marriages.

Applicants who are not applying under the three-year rule as the spouse of a U.S. citizen only need to complete Items 1-3 of Part 5 and then can skip to Part 6.

Item 4c. calls for the date of the marriage of the applicant and their spouse. This is a crucial date for two reasons. First, if the marriage occurred before the applicant immigrated to the United States, and the applicant immigrated as the unmarried child, son, or daughter of a permanent resident (second preference petition) or the unmarried child, son, or daughter of a U.S. citizen (immediate relative petition or first preference petition), the applicant could be denied naturalization and placed in removal proceedings for having committed visa fraud. People in such a situation should not apply for naturalization before checking with an expert. See **Chapter 4** for more information on this topic. Second, if the applicant was previously married, and the date of divorce is after the date of the new marriage, the current marriage may not be valid.

Item 4d. asks applicants directly if they live at the same physical address as their current spouse. If an applicant answers no, they must provide their spouse's current address in Part 14, Additional Information. Answering no to this question may raise the suspicion of USCIS who is reviewing the application to screen for possible marriage fraud (i.e., if the applicant married their spouse *only* to get their green card), and it could jeopardize the ability to take advantage of the three-year residency rule.[29] If USCIS believes marriage fraud occurred, they could deny the naturalization application *and* place the applicant in removal proceedings. Because of the risks involved, people who committed marriage fraud should be discouraged from applying for naturalization unless they check with an expert in immigration law first.

It is important to note that USCIS is no longer requesting details regarding the prior marriages of the applicant or their current spouse. However, applicants applying under the three-year rule

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[25] INA § 319(a); 8 CFR § 319.1(a)(3).
[26] 8 CFR § 319.1(b)(2)(ii). Involuntary or informal separations, however, will not necessarily preclude the applicant from receiving naturalization benefits from the marriage.
[27] For a more detailed list of all marriages that should be counted, refer to USCIS, *Naturalization Application Instructions* at 11.
[28] *Id*.
[29] There are many valid reasons that married couples live apart. However, applicants in this situation should include a brief explanation of the non-voluntary reason they live apart and gather evidence to show they maintain a shared life with their U.S. citizen spouse despite living apart in case it is requested by USCIS.

are required to provide copies of their current marriage certificate and any divorce decrees, annulment decrees, or death certificates from prior marriages for themselves and their U.S. citizen spouse. For all of the reasons explained above, the dates and information contained in each document should be reviewed carefully.

Part 6. Information About Your Children

The new version of the N-400 only requests information about the applicant's children *under the age of 18*. The focus on children under this age is because some children may automatically become citizens when their parent naturalizes, through a process called "derivation of citizenship."[30] See **Chapter 14** for more information on derivation of citizenship. The information the applicant provides in this section will enable USCIS to determine whether the applicant's children will automatically derive citizenship.[31] The information is also used to determine if there is a willful failure to provide child support issue.

Item 1 asks for the total number of children under the age of 18 of the applicant. The instructions to the application state that applicants should list *ALL* of their children under the age of 18, including stepchildren, those who are missing, children born out of wedlock, those born to a previous spouse, and those born in another country.[32] Applicants should also list any children here who may have been left off of prior visa petitions or immigrant visa or adjustment applications.[33]

Item 2 requests specific information about each of the applicant's children under age eighteen, including their name, date of birth (in the month, date, year format), and relationship to the applicant. Instead of requesting the child's specific address, the new edition requests the residence for each child and allows the applicant to state whether the child resides with the applicant, not with the applicant, or if the child's address is unknown/missing. Applicants must also answer the question "Are you providing support for this child?"

In completing this section, applicants should also be cognizant of the good moral character issue of willful failure to provide child support. If any applicant has a minor child who does not reside with them, they should be prepared to submit evidence they provide support for the child to USCIS.[34] If an applicant answers "No" to the question regarding support, they may face denial for failure to support one's dependents. Please see **Chapters 6 and 7** for more

[30] INA § 320.
[31] Even where children are not entitled to automatically derive citizenship, it is important to list all the children (even those who are undocumented or who live abroad), whether married or unmarried, because the parent might plan to submit a visa petition for their children after they naturalize.
[32] USCIS, *Naturalization Application Instructions* at 15.
[33] In this situation, it might raise concerns for USCIS about whether the applicant has lied about their children. In this instance, it is best to clear up the confusion with USCIS rather than continue to lie or hide the truth. This might mean preparing a short statement about why a child was not included in an earlier petition. For instance, "At the time I applied for permanent residence, I did not list my daughter Sandra because I was never married to her mother and did not know that I had a daughter. I have since learned about my daughter, made contact with Sandra and her mother, and am regularly paying child support." Representatives should always ask if all the children were listed in prior applications and make sure no child is left off at the time of naturalization.
[34] *Id*.

information about good moral character in general and failure to provide child support specifically.

Part 7. Information About Your Employment and Schools You Attended

Part 7 asks about the applicant's employment and schools the applicant attended during the last five years (or three years if applying as the spouse of a U.S. citizen). The applicant should list their employers (including military service) and schools for the previous five years (or three years if applying as the spouse of a U.S. citizen) with their present employer or school in the top line and least recent in the bottom line (or in Part 14, Additional Information, if needed). If the applicant is a homemaker, they should write "homemaker" for the employer name. If the applicant works for themself, they should write "self-employed." If unemployed, the applicant should write "unemployed" in the field labeled "Employer or School Name" and write the dates of unemployment where requested. Enter "N/A" in all other fields. If the applicant is retired or on disability, they should indicate this fact and specify their last employment (if they had one) before retiring or acquiring the disability. This will show some connection to the workforce and thus some positive equities for the applicant. USCIS might inquire about how an applicant who is not working is supporting themself.

Part 8. Time Outside the United States

Part 8 of the form requests that the applicant list all trips (over twenty-four hours) taken outside of the United States during the last five years (or three years if applying as the spouse of a U.S. citizen). Like the employment history requested in Part 7 of the form, the applicant only needs to list trips for the period of permanent residence for their application identified in Part 1 (generally, five or three years).[35] In requesting this information, USCIS is concerned with the continuous residence requirement of either five or three years; the physical presence requirement of two and a half or one and a half years; and whether the applicant abandoned their lawful permanent resident status. See **Chapter 5** for a discussion of continuous residence and physical presence and **Chapter 4** for a discussion of abandonment of residence.

NOTE: While Form N-400 only asks for trips taken in the last five years or three years if applying as the spouse of a U.S. citizen, USCIS could investigate abandonment of residence from the time the applicant became a lawful permanent resident. Advocates should discuss with applicants all trips taken since becoming a lawful permanent resident, not just those in the last five or three years, to ensure that these did not cause the applicant to have abandoned their lawful permanent resident status. It is important to remember that USCIS has access to information obtained by other agencies, including Customs and Border Protection (CBP), which may reveal information related to the issue of abandonment (e.g., a list of dates of the applicant's departures from and returns to the United States). Additionally, USCIS might ask the applicant during the interview about absences before the five-year or three-year period and

[35] USCIS, *Naturalization Application Instructions* at 16.

could look at the applicant's passport to determine if the applicant abandoned their residence more than five or three years ago.

It is important to remind applicants that trips to Mexico and Canada are trips outside the United States. Applicants do not have to list any absence from the United States that lasted less than twenty-four hours. If the applicant left the United States for more than six months or moved to another country after obtaining residency in the United States, these are red flags, and the applicant should talk with an experienced immigration expert to decide whether it is advisable to apply for naturalization.

If the applicant has left the United States for a period of more than six months and less than one year, they will have to establish to the satisfaction of the adjudicator that they did not break the continuity of their residence. Applicants should be prepared to submit evidence, such as IRS tax transcripts, to show they maintained their continuous residence in the United States during a trip abroad longer than six months.[36] If they cannot, they will be required to wait four years and six months after they returned to file the application so that the residency requirements are met.[37]

If the applicant was gone one year or longer, they will not be eligible for naturalization until four years and one day (or two years and one day if applying as the spouse of a U.S. citizen) after they returned from the absence.[38] In the case of such a long absence, you should also be on the lookout for abandonment of residence issues. These issues arise when the applicant moved from the United States to live in another country after obtaining residency in the United States, and where the applicant cannot prove that they did not abandon their home in the United States. In these cases, USCIS might deny the naturalization application and determine that the applicant abandoned their lawful permanent residence, thus causing the Department of Homeland Security to place them in removal proceedings. In spite of this risk, the applicant must answer this and all questions truthfully. They must work with a trusted immigration law expert to decide if it is advisable to apply for naturalization and, if so, to help prove that they did not break their continuous residence nor abandon their lawful permanent resident status. If there is a real possibility that USCIS will decide that they have abandoned their residence, they should consider not applying for naturalization because USCIS could place them in removal proceedings. In removal proceedings, DHS will try to show they have lost their residency and as such are now deportable.

If someone moved to a different country, even if they returned frequently and were never outside of the country for more than six months at a time, they could still be found to have continuous residence problems. See **Chapter 5** for more information on the residency requirements and **Chapter 4** for more information on abandonment of residence.

If your client has more than six absences from the United States, they should list them in Part 14, Additional Information. If you need more space, you may attach additional pages to the

[36] *Id*. at 16–18.
[37] 8 CFR §§ 316.5(c)(1)(i), (ii). See Chapter 5 for a discussion of these provisions.
[38] 8 CFR § 316.5(c)(1)(ii).

form. Be sure to include the applicant's identifying information (including name and A-number) on all additional pages, as specified in the N-400 application instructions.[39]

For applicants who travel outside the United States frequently, it is also important to count the total number of days spent outside the United States to make sure the applicant has the required physical presence. Applicants must have been present in the United States a total of 913 days over the past five years (or 548 days over the past three years).[40] The new version of the form no longer requires applicants to list the number of days spent outside the United States for each trip or in the cumulative. Nevertheless, advocates should be doing this calculation to ensure that applicants meet the physical presence requirement at the time of filing. See **Chapter 5** for more information on the physical presence requirements.

PRACTICE TIP: Of course, it can be difficult to remember the dates of vacations taken several years ago. It may be best to suggest that the applicant try to remember what time of year it was—was it around Christmas or anyone's birthday? Was it a special occasion or holiday? What kinds of things did they do—summer or winter activities? They can try to remember how long the vacation was by thinking about whether they had to have someone watch their house or apartment during that time, whether they took a vacation or a leave of absence from work, or whether they were between jobs. They should also look at the dates in their passport and reentry permits, if they have any.[41] Although exact dates are best, USCIS will accept estimate dates in this section.

There are a few options for those completing the form online with estimated dates. ILRC recommends applicants enter the date electronically as the first of the month (e.g., "10/01/2023" to indicate October 2023) and write a short explanation in Part 14, Additional Information, explaining the date is an approximation. Those filling out the form by hand may want to note that it is an approximate date in the space provided (e.g., "Approximate" or "Approx." 10/01/2023) Note, however, that the instructions to Form N-400 suggest that applicants not write outside the blank space provided for answers. If the applicant travels outside of the United States frequently or during specific times of the year, the applicant may include a written statement in Part 14, Additional Information, explaining where they travel, how often, and the number of days they spent outside of the United States. For example, if the applicant left the United States every year for short vacations, their explanation might say something like, "One two-week vacation to Guadalajara, Mexico, approximately every year from 2022-2024."

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[39] USCIS, *Naturalization Application Instructions* at 5.

[40] *Id*. at 18–19.

[41] Re-entry permits are generally obtained when a permanent resident is taking a longer trip outside the United States. Immigrants are required to turn in their old re-entry permits to USCIS when they get them renewed. Additionally, many people never had re-entry permits and might not have stamps in their passports. Therefore, the applicant may not be able to determine all of their trips out of the United States from their current permit or passport. You and an applicant can request a copy of their file with a Freedom of Information Act (FOIA) request, which will include copies of re-entry permits, if any. In addition to helping the applicant remember the dates of their absences, it will help make sure the absences listed are consistent with what USCIS has in its records. The ILRC has created a guide on how to request information under the Freedom of Information Act (FOIA) and Privacy Act. See ILRC, *A Step by Step Guide to Completing FOIA Requests with DHS* (Dec. 14, 2021), https://www.ilrc.org/step-step-guide-completing-foia-requests-dhs.

WARNING: Applicants and their advocates must look very carefully at their responses to the questions regarding residences, work history, and absences from the United States. If there are gaps or contradictions in these answers, USCIS probably will discover them, and it could cause delays, denials, or even deportation.

Part 9. Additional Information About You

Part 9 is the longest section in the N-400 form. This section asks for additional information that the USCIS adjudicator will use to determine whether an applicant is eligible to naturalize, especially regarding the good moral character requirement. Generally, these questions go to the reasons listed in the Immigration and Nationality Act (INA) for which USCIS can deny naturalization. **Chapters 6 and 7** deal in depth with the issues presented in these questions. If an applicant obtains naturalization fraudulently and this is discovered, USCIS could begin proceedings to denaturalize them, which means losing their citizenship (see **Chapter 15**).[42] If this happens, they can also place the person in removal proceedings. So, it is important that applicants answer the questions in this part, and all other parts of the application, truthfully. The advocate can then help the potential applicant decide whether to proceed with applying for naturalization and help them weigh their options.

The questions in Part 9 focus on good moral character issues; political affiliations that may cause the applicant to be ineligible for naturalization; military issues; selective service registration issues; previous deportation, removal, and exclusion issues; and the oath of allegiance requirements. Naturalization may be denied to persons who are not of “good moral character.” To help make this determination, Part 9 includes many questions involving the applicant’s eligibility as it relates to national security and involvement in genocide, torture, and the enlistment of child soldiers. These questions stem from the Intelligence Reform Terrorism Prevention Act of 2004 and the Child Soldier Accountability Act of 2008.

If the applicant answers “Yes” to any of the items in Part 9, Questions 1-24 you will have to work with them to provide a detailed explanation of why they answered “yes.” You should evaluate the issue carefully to determine whether your client should apply for naturalization. Before an applicant with any criminal convictions or arrests applies for naturalization, you should obtain the criminal records of that client by submitting their fingerprints to the FBI and/or your state’s criminal justice background check program. This way, you and the applicant will be aware of and can analyze all the relevant good and bad facts in their case. See **Chapters 6 and 7** for a detailed explanation. Issues in this section that are commonly raised or are particularly problematic are discussed below.

PRACTICE TIP: A thorough red flag screening can help advocates identify the risks associated with applying for naturalization. Applicants are then better able mitigate and weigh those risks. There is a legal review guide for the N-400—a series of questions to ask the applicant to determine any red flags in Chapter 10.

[42] INA § 340(a).

Items 1–2: False claim to U.S. citizenship and voting

Most of these questions relate directly to the applicant's good moral character and possible deportability. If the applicant answers "Yes" to any of these questions, USCIS could deny their application.[43] In addition, a "Yes" answer to **Items 1- 2** could even result in USCIS placing the applicant in removal proceedings.[44] Thus, it is vital that anyone answering "Yes" to any of the questions in this part work with an expert immigration attorney or DOJ accredited representative before applying for naturalization. Please see **Chapter 6** for more information on these topics.

Items 3–4: Payment and filing of taxes

Item 3 concerns whether the applicant owes any overdue federal, state, or local taxes. Older versions of Form N-400 also asked if the applicant had ever not filed a federal, state, or local tax return since becoming a permanent resident, regardless of whether filing taxes was required. Now the question concerns only overdue taxes. Even though there is no longer a question regarding the filing of tax returns generally, advocates should review applicants tax history and confirm they have filed a tax return every year since becoming a permanent resident and, if not, review the reason why the applicant did not file.

If an applicant owes any back taxes, advocates should review the following information with the applicant: (1) how much is owed and to whom, (2) the reason for the tax debt, and (3) what efforts are being made to pay the debt. Applicants who owe overdue taxes will need to provide copies of tax transcripts for the past five years (or three years for those applying as the spouse of a U.S. citizen), along with evidence of an agreed repayment plan and of timely payments according to the plan.[45] Advocates should carefully review these documents before they are submitted to USCIS. Tax debt will not always result in the denial of a naturalization application.[46] Applicants who failed to file tax returns in the past may file the returns late and pay any back taxes due.[47] Nevertheless, applicants with any overdue taxes must ensure they have the necessary evidence from the Internal Revenue Service (IRS) or other tax authority and that they stay current with their payment plan through the naturalization process. Advocates should also check with local practitioners to find out more about how the local USCIS field office approaches overdue taxes. Please see **Chapter 6** for more information.

Item 4 asks whether, since becoming a lawful permanent resident, the applicant did not file a federal, state, or local tax return because they considered themself to be a "non-U.S. resident" and whether they indicated on a federal, state, or local tax return that they were a nonresident. A "Yes" answer to these questions may raise a rebuttable presumption (assumption) that an applicant has abandoned their status as a lawful permanent resident. Anyone who marks "Yes" to these questions must see an expert in immigration law before applying for naturalization—

[43] 12 USCIS-PM F.5(M).
[44] INA § 237(a)(3)(D); *see also Matter of Zhang*, 27 I&N Dec. 569 (BIA 2019).
[45] USCIS, *Naturalization Application Instructions* at 20.
[46] USCIS-PM F.5(L)(3).
[47] *Id*.

someone who has abandoned their residence risks being put in removal proceedings, losing their green card, and being deported.

NOTE: At the naturalization interview, adjudicators are likely to ask about applicants' tax history, e.g., "Have you always paid your taxes?" Applicants can say, "Yes" or "I have not had to because my income was too low," or "I paid all taxes I was required to pay, but some years I did not have to file because my income was low." While tax returns are not required for every case, some USCIS offices require that applicants bring copies to their interview. Tax returns or transcripts are especially recommended for anyone who has traveled outside of the United States for longer than a six-month period or who is filing based on a marriage to a U.S. citizen.[48]

Failure to file taxes since becoming a permanent resident is a good moral character issue, but not an issue that would cause the applicant to be deportable, with the possible exception of someone who was convicted of a tax fraud offense that constitutes a crime involving moral turpitude (CIMT).[49] If the tax fraud conviction involved an amount exceeding $10,000, it could be an aggravated felony.[50] In addition, a person can be found inadmissible and barred from establishing good moral character if they formally admit to committing a CIMT, even if there is no conviction.

See **Chapters 6 and 7** for a discussion of this and other good moral character issues.

It is important to note that USCIS is primarily concerned with what the applicant has done for the last five years (the period for which good moral character is required—three years for applicants applying as the spouse of a U.S. citizen), but USCIS may look at the applicant's conduct prior to that five-year or three-year period. An applicant who failed to file a tax return at any point in time should see an immigration expert and a tax expert who will help them determine whether this may be a good moral character issue and whether to file their past tax returns before applying.[51]

Items 5: Certain political activities

People who have been involved in certain political activities (in the United States or abroad) cannot naturalize until ten years after they have stopped their involvement in such activities. Those political activities include advocating anarchism (a philosophy opposed to all forms of government), advocating totalitarianism (where one political party or group controls everything), or advocating communism. A person who *voluntarily* participated in communist activities or with communist groups cannot naturalize for ten years following the last

[48] USCIS, *Naturalization Application Instructions* at 12.
[49] To be deportable on this ground, the lawful permanent resident must have been convicted of a single crime involving moral turpitude (CIMT), committed within five years after admission to the United States, that has a potential sentence of a year or more, or convicted of two CIMTs at any time after admission that did not arise from a single incident. *See* INA §§ 237(a)(2)(A)(i), (ii).
[50] *See* INA § 101(a)(43)(M)(ii).
[51] An applicant may be able to file past returns and set up a payment schedule with the IRS for any back taxes owed.

involvement.[52] *However*, if the applicant can prove that the association or activities were involuntary,[53] required by law[54] (as in several communist countries), or necessary for the purpose of obtaining employment, food, or other essentials of living,[55] they will be allowed to naturalize. USCIS may ask applicants from communist or formerly communist countries about this issue. In determining whether the membership was voluntary, the applicant should be ready to say truthfully whether they believe in the principles of communism, anarchism, or totalitarianism.

USCIS has altered the questions it asks of applicants regarding past and present political activities and beliefs. While it has removed the questions specifically regarding association with the Nazi government, it has added several new questions to this version of the N-400 of which advocates should be aware. In particular, Item 5.b. in the new N-400 form asks if an applicant has advocated or been a member of a group that advocates: opposition to all organized government; world communism; the establishment in the U.S. of a totalitarian dictatorship; the overthrow of the U.S. government (or all forms of law) by force, violence, or other unconstitutional means; unlawful assaulting or killing of any officer of the U.S. government or any other organized government; unlawful damage, injury, or destruction of property; or sabotage. This is a significant departure from questions related to terrorism and national security found in the prior version of Form N-400 and in other applications, such as Form I-485. While this multi-part question seems to be grounded in concerns about national security related good moral character bars, it sweeps much more broadly than that. If an applicant answers “Yes” to any of these questions, they should consult an immigration law expert before proceeding to file their N-400.

Items 6–14: National security and additional good moral character questions

Items 6 through 14 are questions based on legal requirements involving the applicant’s eligibility as it relates to national security and good moral character. Some of these questions stem from the Intelligence Reform and Terrorism Prevention Act (IRTPA) of 2004[56] and the Child Soldier Accountability Act of 2008.[57] These laws amended provisions of the INA as it relates to good moral character, inadmissibility, and deportability. For example, the IRTPA amended the INA by making it a permanent bar to showing good moral character if the applicant at any time engaged in genocide, acts of torture or extrajudicial killings, or severe violations of religious freedom.[58] It also added a ground of deportability for receiving “military-

[52] INA § 313(a), (c); 8 CFR § 313.2(a).
[53] INA § 313(d); 8 CFR § 313.3(b)(1).
[54] INA § 313(d); 8 CFR § 313.3(b)(4).
[55] INA § 313(d); 8 CFR § 313.3(b)(5).
[56] Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. No. 108-458, 118 Stat. 3638 (2004).
[57] Child Soldiers Accountability Act of 2008, Pub. L. No. 110-340, 122 Stat. 3735 (2008).
[58] Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. No. 108-458, §§ 5501, 5502, 118 Stat. 3740 (2004).

type training" from or on behalf of an organization that at the time the training was received was a terrorist organization.[59]

Item 7.a.-g. asks if the applicant has ever been involved in any way with any of the following: genocide; torture; killing or trying to kill someone; intentionally and severely injuring someone; forcing or trying to force someone to have any kind of sexual contact or relations; not letting someone practice their religion; causing harm to someone because of a protected ground. If the applicant is the victim of one of these crimes, the applicant can answer "No" unless the applicant was both a victim and perpetrator of the act. An applicant should answer "Yes" if they ever committed one of the acts listed or if any action taken by the applicant, even if under duress, contributed to or enabled another person to carry out these acts against another.[60]

Individuals found to have engaged in the conduct specified in **Item 7.a.-g.** may have problems demonstrating good moral character, and because these offenses relate to grounds of deportability and inadmissibility (which could cause applicants to be found to have been inadmissible at the time of becoming a permanent resident or other admission to the United States), they could be placed in removal proceedings and deported. For example, an applicant who has ordered, incited, assisted or otherwise participated in genocide,[61] torture[62] (or extrajudicial killings), or severe violations of religious freedom[63] at any time is permanently barred from establishing good moral character for naturalization.[64] Applicants who answer "Yes" to any of these questions should consult with an expert immigration attorney or DOJ

[59] "Military-type" training includes many types of activities, such as training on causing death or serious bodily injury, destroying or damaging property, and assembly of explosives, firearms, and other weapons. Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. No. 108-458, § 5402, 118 Stat. 3737 (2004).
[60] INA §§ 212(a)(3)(E), 212(a)(2)(G).
[61] "Genocide" is (whether in time of peace or war) destroying, with the specific intent to do so, in whole or in substantial part, a national, ethnic, racial, or religious group by engaging in certain acts against members of that group, including killing, causing serious bodily injury, or causing permanent impairment of mental faculties through drugs, torture or similar techniques. See 18 U.S.C. § 1091(a) for complete definition.
[62] "Torture" is an act committed outside the United States by a person acting under color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incident to lawful action) upon another person within their custody or physical control. *See* 18 U.S.C. § 2340 for a complete definition.
[63] Violation of religious freedom applies to noncitizens who, while serving as a foreign government official was responsible for carrying out certain offenses such as arbitrary prohibitions on, restrictions of or punishment for assembling for peaceful religious activities such as worship, preaching, and prayer, including arbitrary registration requirements; speaking freely about religious views; changing one's religious beliefs and affiliation; possession and distribution of religious literature, including Bibles; or raising one's children in the religious teachings and practices of one's choice; or any of the following acts if committed on account of an individual's religious belief or practice: detention, interrogation, imposition of an onerous financial penalty, forced labor, forced mass resettlement, imprisonment, forced religious conversion, beating, torture, mutilation, rape, enslavement, murder, and execution. *See* 22 U.S.C. § 6402 for complete definition.
[64] INA §§ 101(f)(9), 212(a)(3)(E), 237(a)(4)(B) (genocide and torture), 212(a)(2)(G) (religious freedom). *See also* 12 USCIS-PM F.4.

accredited representative to determine whether they are eligible to naturalize and whether they may be possibly deportable.[65]

NOTE: The language used in many of the questions on the N-400 form has been simplified for applicants. However, this also means that it can be very difficult for applicants and their representatives to identify the meaning given to these terms by USCIS. For example, **Item 7.f.**, related to "not letting someone practice their religion," likely refers to particularly severe violations of religious freedom carried out by foreign government officials referred to in INA § 212(a)(2)(G). Be sure to read and consult the USCIS Policy Manual, Vol. 12. Citizenship & Naturalization, Part F: Good Moral Character, when completing this section of the form. The Policy Manual is available at https://www.uscis.gov/policy-manual/volume-12-part-f-chapter-4.

Many questions in Part 9 are broad and include terms not defined in the INA, such as whether the applicant participated in a self-defense unit or police unit (Part 9, Item 8).[66] Because these questions are overly general and legally vague, advocates should thoroughly interview applicants to determine whether the response on the form is legally relevant. Also, advocates working with applicants who received Temporary Protected Status (TPS), asylum, or benefits under the Nicaraguan Adjustment and Central American Relief Act (NACARA) should review the relevant applications that were previously submitted to determine if the applicant may have already implicated themself by providing information related to items numbered 5 through 14.[67]

Item 12 asks if the applicant has ever received any type of weapons, paramilitary, or military-type training. This includes mandatory military service in the applicant's country of birth or citizenship. According to USCIS, in this context an applicant should respond "Yes" even if the weapons training was recreational, and explain the circumstances in Part 14, Additional

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[65] Legal advocates should review relevant grounds of inadmissibility and deportability, including INA § 237(a)(4) subsections: (B) terrorist activities; (D) participation in Nazi persecution, genocide, or the commission of any act of torture or extrajudicial killing; (E) participation in commission of severe violations of religious freedom; (F) recruitment or use of child soldiers; INA§ 212(a)(2)(G) foreign government officials who have committed particularly severe violations of religious freedom; INA § 212(a)(3) security and related inadmissibility grounds, including subsections: (B) terrorist activities; (E) participation in Nazi persecution, genocide, or the commission of any act of torture or extrajudicial killing; (F) association with terrorist organizations; (G) recruitment or use of child soldiers. Advocates should also review INA § 219 (designation of foreign terrorist organizations).

[66] In a meeting with advocates in Washington, DC on April 24, 2014, USCIS clarified that for the question regarding an applicant's membership, service, help, or participation in a paramilitary group, USCIS is not looking for organizations that are associated with the United States military, such as Reserve Officers' Training Corps. See Item 8.b.

[67] These questions touch on the terrorism-related inadmissibility grounds (TRIG), deportability grounds, and good moral character bars. While the TRIG bars are broad, advocates should be aware that USCIS has issued policy memoranda regarding the implementation of discretionary exemptions to TRIG under INA § 212(d)(3)(B)(i). More information on TRIG exemptions can be found at USCIS, *Terrorism-Related Inadmissibility Grounds Exemptions*, https://www.uscis.gov/legal-resources/terrorism-related-inadmissability-grounds/terrorism-related-inadmissibility-grounds-exemptions. Keep in mind these exemptions are policies and may be changed at any time.

Information.[68] Applicants and advocates should be aware that "weapons" training is not limited to firearms.

Items 13–14 directly relate to the Child Soldier Accountability Act of 2008. The Act defines "armed force or group" as an army, militia, or other military organization, whether it is state-sponsored or not, but excludes groups assembled solely for nonviolent political association.[69]

Items 15-16: Criminal record

The new Form N-400 provides a more thorough explanation of which crimes and offenses should be disclosed in the application than was included in prior versions. However, the number of questions asked of the applicant has been reduced to just two: has the applicant ever committed (or tried, agreed, or asked to commit) a crime, OR have they ever been arrested, cited, detained, or charged with a crime or offense? A specific question regarding convictions has been removed. Nevertheless, it is very important for applicants to be honest about their criminal history, no matter how long ago, whether they were arrested or not, how seemingly insignificant the offense, whether it was a juvenile adjudication, and regardless of whether the charges were dropped or erased ("expunged" or "vacated") from the applicant's record. USCIS will discover arrests through the applicant's fingerprint and name checks, so there is no advantage in hiding arrests. Additionally, an applicant could be denied naturalization for a lack of good moral character for lying about their criminal record (i.e., giving false verbal testimony at the naturalization interview—see **Chapter 6**).

It is important to note that **Item 15.b.** of this section asks, "Have you ever been arrested, cited, detained, or confined by any law enforcement officer, military officer (in the U.S. or elsewhere), or immigration official for any reason?" As such, this would include any arrest, citation, or detention by the Immigration and Naturalization Service (INS), the Border Patrol, USCIS, CBP, Immigration and Customs Enforcement (ICE), or any law enforcement agency. Also, since this question includes the word "cited," the ILRC believes that applicants should answer "Yes" to this question, even if the only interaction the applicant has ever had with any law enforcement official was a traffic citation, and disclose those incidents in Part 9, Item 15.b.[70] A parking ticket is not a traffic citation or moving violation. Although traffic citations without arrests should not affect one's good moral character for naturalization, many USCIS offices require that an applicant note any traffic citations on the application and mention them when under oath during the interview or else possibly risk having their naturalization application denied for giving false testimony under oath. Often, USCIS will follow up by asking if the citations are paid.

USCIS will use an applicant's fingerprints to find out about their arrests—so they will know if the applicant lied and can deny the application for that reason. Anyone who answers "Yes" should see an expert in immigration law since an applicant may be denied, placed in removal

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[68] Clarified by USCIS in a meeting with advocates in Washington, DC on April 24, 2014.

[69] Child Soldiers Accountability Act of 2008, Pub. L. No. 110-340, § 2(a)(1), 122 Stat. 3735 (2008) (codified at 18 U.S.C. § 2442).

[70] The instructions for the N-400 indicate that unless the traffic offense was alcohol or drug related, led to an arrest, or seriously injured another person, then documentation of the incident is not required. This instruction supports the conclusion that any citation should be disclosed in response to Item 15.b. *See* USCIS, *Naturalization Application Instructions* at 20.

proceedings, and possibly removed from the United States if they have been convicted of certain crimes. An immigration law expert may know how to address these issues.

The applicant may have misconceptions as to what constitutes an arrest or conviction. In addition, they may think that if the arrest occurred several years ago, it will not show up in their record or is unimportant. To avoid misunderstandings, explain to applicants that you need to know everything about their encounters with the police or any other law enforcement agency, no matter how trivial it may be. It is advisable to obtain the applicant's FBI record, state criminal history records, and court dispositions to confirm the applicant's recollections.

It is important to note that the new Form N-400 no longer asks applicants to list how long they were in jail or prison. Advocates should continue to request this information from clients. Applicants who have spent 180 days or more in jail or prison during the five- or three-year period before applying will be denied for lack of good moral character, regardless of the reason for their incarceration.[71]

Someone who was apprehended or arrested by the INS, the Border Patrol, USCIS, ICE, or CBP should consider this an arrest in answering Item 15.b. This includes applicants who were later granted asylum or other relief and those that may have left the United States under a "voluntary return" or "voluntary departure." As with all arrests, an applicant who was arrested by any of the above-mentioned federal agencies should write an explanation to this question about the circumstances of the arrest. For example, an applicant might relate the circumstances of their voluntary departure on their N-400 as follows: "In 2008 I was detained by ICE during a raid of my workplace. I voluntarily departed the United States and returned to Hong Kong. In 2012, I immigrated to the United States with a family visa." Generally, a voluntary departure prior to becoming a permanent resident will not affect one's naturalization application. However, other immigration arrests or departures, particularly those that were not disclosed in the permanent resident application process or a deportation for which USCIS did not grant a previous waiver, could mean the applicant's permanent resident status was not valid. Applicants who have prior deportations, removals, or other apprehensions by immigration officials should consult with an immigration law expert to confirm it is safe to file their N-400.

IMPORTANT NOTE: The instructions for the new Form N-400 contain very specific guidance about which records must be submitted relating to an applicant's criminal history.[72] For example, if an applicant was convicted of a criminal offense, they are required to submit "documentation of all arrest reports, charging documents, court dispositions, sentencing reports," along with "evidence to show that you completed your period of jail, prison, alternative sentence, or probation."[73] The evidence requested in the revised instructions differs from prior USCIS guidance that "certified court dispositions" on all criminal cases be submitted.[74] Applicants and advocates should review all criminal records carefully before submitting them to USCIS. Information contained in arrest or court records may reflect negatively on an applicant's good moral character, even if the final outcome of the criminal charge does not

[71] INA § 101(f)(7); 12 USCIS-PM F.4.
[72] USCIS, *Naturalization Application Instructions* at 20-22.
[73] *Id*. at 21.
[74] *See* 12 USCIS-PM F.3(B).

make them ineligible for naturalization. Moreover, juvenile records are confidential in many states and may be against state law to submit. Check your state laws and consult with an expert before submitting any documents regarding juvenile delinquency.

Item 16 relates to whether the applicant has received a suspended sentence, been placed on probation, or been on parole. If the applicant is now on probation, parole, or under a suspended sentence, USCIS cannot adjudicate their naturalization application.[75] Further, although probation, parole, or a suspended sentence during the relevant statutory period does not automatically preclude the applicant from establishing good moral character, this may affect the overall good moral character determination. All applicants who answer "Yes" should consult with an experienced immigration attorney or DOJ accredited representative.

Item 17: Good moral character

These questions relate to the applicant's good moral character. They involve issues such as smuggling (includes helping a family member illegally enter the United States), failure to pay child support, misrepresentation to obtain a public benefit, prostitution, polygamy, and illegal gambling. The questions in the new Form N-400 also cover the manufacture, production, cultivation, dispensing, sale and the smuggling of controlled substances, illegal drugs, or narcotics. Some of these activities, such as failure to support dependents, might result in a denial of the naturalization application but no other immigration penalty. Other activities, however, such as alien smuggling and certain drug-related offenses, can also result in the applicant being placed in removal proceedings. It is important to note that for some of these offenses, the applicant does not need to be convicted for USCIS to deny the naturalization application or place the person in removal proceedings. The mere commission of some of these activities is sufficient. Although the new Form N-400 no longer asks if an applicant has ever been a "habitual drunkard," advocates should work carefully with applicants who disclose a history of alcohol use. Anyone who is a "habitual drunkard" during the five-year or three-year (for those applying as a spouse of a U.S. citizen) good moral character period will be ineligible for naturalization. For more information about completing this section, be sure to read and consult **Chapters 6** and **7.** Advocates should also review Chapter 12 of the USCIS Policy Manual, Part F, Good Moral Character, when completing this section of the form. The Policy Manual is available at https://www.uscis.gov/policy-manual/volume-12-part-f.

Item 17.b. It is also important to note that even though many states have legalized the medical or recreational use of marijuana, it remains a controlled substance under federal law. See ILRC, *Community Flyers on Marijuana* (Apr. 2019), https://www.ilrc.org/community-flyers-marijuana, for a brief overview.

Item 17.e. Applicants should be warned about alien smuggling issues arising during the naturalization process. If it appears that the applicant's spouse or child is in the United States without legal immigration status, the naturalization adjudicator could ask about whether the applicant helped their spouse or child enter the United States without documents. An applicant could be denied naturalization and even removed from the United States if they helped smuggle someone across the border illegally, even if they merely helped their spouse (or

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[75] 8 CFR § 316.10(c)(1).

children) cross the border by sending money to pay a smuggler. If the applicant discloses on Form N-400 that they engaged in smuggling before getting their green card, but smuggling was not disclosed and waived at the time of admission for lawful permanent residence, they could be denied and placed in removal proceedings. If placed in removal proceedings, an immigration lawyer or DOJ accredited representative may be able to help an applicant apply for a waiver of this ground of deportation. If the applicant in such a situation is not already being represented by an immigration expert attorney or DOJ accredited representative, the applicant must be referred to such an expert attorney before applying for naturalization. See **Chapter 6** for more information on smuggling.

NOTE: Item 17.h. Asks about misrepresentation by the applicant to obtain a public benefit in the United States. An applicant who has been receiving public benefits is still eligible to naturalize. Receipt of public benefits is not a bar to eligibility.[76] If the applicant received public benefits by fraud or by lying, USCIS might deny the applicant for failing to show good moral character.[77] According to USCIS, if the applicant has ever made any misrepresentation, such as lying or omitting information, to obtain a public benefit, regardless of whether the applicant intended to misrepresent themself, the applicant should answer “Yes” and provide a written explanation on a separate sheet of paper. Applicants who answer “Yes” to this question should consult with an experienced immigration attorney or DOJ accredited representative before applying.

For more information on these good moral character issues and how they can affect one’s naturalization application and immigration status, please see **Chapters 6 and 7**.

Items 20–21: Removal, exclusion, and deportation proceedings

Someone who has been deported, excluded, or removed in the past should see an expert in immigration law before applying for naturalization. Even if they were deported, excluded, or removed long ago and then became a lawful permanent resident after the deportation was waived,[78] we still suggest that an applicant with this history see an expert in immigration law to ensure there will not be problems pursuing naturalization. If someone is now in deportation or removal proceedings or under an order of removal or deportation, they should speak with a legal expert because special rules may apply (see **Chapters 6 and 13**).

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[76] Be sure to cross-check any absence from the United States with receipt of public benefits! There is no public charge test for naturalization. But advocates should consider whether an applicant with an extended absence (greater than 180 days) who received cash aid from the government prior to travel and was admitted to the United States after the extended absence may face public charge inadmissibility issues. Additionally, if the applicant was absent from the United States while receiving public benefits, it is important to determine if the particular public benefit the applicant was receiving had a prohibition on receiving the benefit while absent from the United States for 30 days or more. If so, this could lead to problems with good moral character and even possible benefits fraud.

[77] In a stakeholder meeting on April 24, 2014, USCIS clarified that this question is not limited to misrepresentation that is willful or knowing. According to USCIS, if the applicant made a misrepresentation to obtain a public benefit (regardless of intent), they should mark “Yes” and provide a written explanation.

[78] If the applicant was deported and then immigrated legally within five years of their deportation date, they would have needed a waiver of the prior deportation ground of exclusion. INA § 212(a)(9)(A).

Item 22: Selective service

Every male and person assigned male at birth between the ages of eighteen and twenty-six—citizen or not—must register with the Selective Service (or the "draft"). The only persons exempt from this requirement are men or those assigned male at birth who are in the United States pursuant to a non-immigrant visa or in diplomatic status. USCIS considers it a lack of good moral character and failure to be attached to the U.S. Constitution for people who are required to register with the Selective Service to knowingly and willfully fail to do so. For a thorough description of USCIS's policy regarding failure to register for the Selective Service, please see **Chapter 6**. Applicants who were required to register with the Selective Service and did so need to include the date of registration and their selective service number on the form (**Item 22.c.**). Applicants who were required to register for the Selective Service but did not do so and are still under twenty-six years of age must register for the Selective Service before applying for naturalization.[79]

PRACTICE TIP: An applicant can find out if they registered for the Selective Service and look up their registration number and date by visiting Selective Service System, *Verify Registration*, https://www.sss.gov/verify/. The applicant can also get this information by calling the Selective Service registration information line at 1-847-688-6888.

The rules are a bit more confusing for applicants who did not register for the Selective Service and are now over twenty-six. Some people are required to submit a statement explaining why they did not register and a status information letter from the Selective Service,[80] and others are not required to submit such information. The rules are as follows:[81] If the applicant is between twenty-six and thirty-one years of age when they apply for naturalization and did not register for the Selective Service (or between ages twenty-six to twenty-nine and applying as the spouse of a U.S. citizen), they must include a status information letter from the Selective Service and a statement explaining why they did not register with their naturalization application.[82] If the applicant was required to register for the Selective Service but did not and is more than thirty-one years of age when they apply for naturalization (or over age twenty-nine and applying as the spouse of a U.S. citizen), they do not need to submit a status information letter from the Selective Service or a written statement explaining why they did not register.[83]

For a thorough description of USCIS's policy regarding failure to register for the Selective Service, including information on what to say in the attached statement, please see **Chapter 6**.[84]

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[79] USCIS, *Naturalization Application Instructions* at 22; *see also* 12 USCIS-PM D.7(B).
[80] *Id.* Applicants can find the status information letter request form on the Selective Service website at Selective Service System, *Status Information Letter*, https://www.sss.gov/verify/sil/. The letter request form cannot be completed online. Applicants must print and fill out the form and mail it along with supporting documents (if necessary) to the address provided on the form.
[81] USCIS, *Naturalization Application Instructions* at 22.
[82] *See id.*
[83] *See id.* (providing special instructions for applicants who are under age 26 or aged 26 to 31 but not requiring any additional documents for those over age 31); *see also* 12 USCIS-PM D.7(B)(2).
[84] *See also* 12 USCIS-PM D.7(B).

Items 31-37: Oath of allegiance

In order to become a U.S. citizen, an applicant must take an oath of allegiance to the United States.[85] If they answer "No" to any question in **Items 31 through 37**, the applicant will need to provide a full explanation. See **Chapter 11** for a discussion of these requirements.

Applicants who are unable to understand the oath of allegiance due to a physical or developmental disability or mental impairment should apply for a waiver of the oath requirement.[86] USCIS can deny naturalization to applicants who are not legally competent at the time of the naturalization interview or oath, unless the applicant has obtained a waiver of the oath requirement and has a designated representative who can complete the naturalization process for them. In certain circumstances, applicants may also seek a modification of the language of the oath due to religious or conscientious objections. See **Chapters 9 and 11** for more information on these topics.

Part 10. Request for a Fee Reduction

Under USCIS's new fee policy, an increased number of naturalization applicants may be eligible for a fee reduction. Effective April 1, 2024, applicants whose household income is less than or equal to 400 percent of the Federal Poverty Guidelines at the time of filing can pay a reduced filing fee.[87]

Applicants who want to request a fee reduction should complete Part 10 and include with their N-400 a copy of each household member's most recent federal tax return.[88] If an applicant or household member did not file a tax return, they may submit other evidence of income, such as form W-2, paystubs, a letter from an employer verifying income, or other evidence.[89]

Applicants whose income is at or below 150% of the Federal Poverty Guidelines qualify for a complete waiver of the N-400 filing fees.[90] If an applicant is seeking a fee waiver, they will need to complete Form I-912, Request for Fee Waiver, to submit with the N-400. If an applicant is seeking a fee waiver, they should not also request a reduced fee.[91] As of April 30, 2024, USCIS has not provided guidance about how applicants seeking a fee waiver should complete Part 10. ILRC recommends that applicants seeking a fee waiver answer "Yes" to Item 1 and leave questions 2-5 blank. They should then handwrite next to Item 1 AND explain

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[85] INA § 337(a).
[86] The ILRC has created a guide with more information about seeking a waiver of the oath of allegiance. ILRC, *The Oath of Allegiance Waiver for Persons with Severe Disabilities* (Jan. 24, 2024), https://www.ilrc.org/resources/oath-allegiance-waiver-persons-severe-disabilities.
[87] The reduced filing fee effective April 1, 2024, is $380. *See* https://www.uscis.gov/g-1055. The Federal Poverty Guidelines may be found at: https://www.aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines.
[88] USCIS, *Naturalization Application Instructions* at 25–26.
[89] *Id.* For more guidance on the reduced filing fee, see USCIS, *Additional Information on Filing a Reduced Fee Request* (Apr. 1, 2024), https://www.uscis.gov/forms/filing-fees/additional-information-on-filing-a-reduced-fee-request.
[90] For more information about requesting a fee waiver, see USCIS, *Form I-912, Request for Fee Waiver* (Apr. 1, 2024), https://www.uscis.gov/i-912.
[91] *See* USCIS, *Additional Information on Filing a Reduced Fee Request.*

in Part 14, Additional Information, that a Request for Fee Waiver is attached (for example: "I am not applying for a reduced fee. I am eligible for a full fee waiver and am filing Form I-912."). Applicants requesting a reduced fee or a complete fee waiver cannot file their N-400 online. Applicants who do not qualify for a fee reduction should answer "No" to Item 1 and skip to Part 11.

Part 11. Applicant's Contact Information Certification, and Signature

Items 1 through 3 ask for the applicant's contact information, including their daytime phone number, mobile number, and email address. Applicants should provide their current telephone number(s) and email address. If the applicant does not have a telephone number or email, they should write "none." Applicants that are hearing impaired and use a TTD telephone connection, should write "TTD" after the telephone number.

By signing the form, the applicant is indicating that the information provided and documents submitted are correct to the best of their knowledge.[92] Providing false information can be a ground for revocation of naturalization. If an applicant is unable to write in any language, they may sign their name with an "X."[93] Furthermore, a designated representative may sign here if the applicant is unable to sign due to a physical or developmental disability or mental impairment. A family member may assist the applicant in signing the form.[94] Furthermore, a legal guardian or parent may sign if applicable.[95] See **Chapter 9**.

Part 12. Interpreter's Contact Information, Certification, and Signature

Some people may need an interpreter to help complete the N-400, including those seeking an exemption as well as those who speak English but may not feel comfortable completing a legal form in English. Anyone who uses an interpreter should complete this section.

The interpreter is also required to complete this section. By signing this section, the interpreter certifies that: (1) they are fluent in English and the language used to interpret to the applicant; (2) they have read every question and the instructions on the form, and the applicant's answer to each question to the applicant; and (3) the applicant understood each and every instruction, question, and answer to each question.

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[92] The Form N-400 signature clause reads "I certify … that I provided or authorized all of the responses or information contained in and submitted with my application … and that all of the responses and information are complete, true, and correct."
[93] 12 USCIS-PM B.2(B).
[94] 12 USCIS-PM C.3(A)(3).
[95] USCIS, *Naturalization Application Instructions* at 26.

Part 13. Contact Information, Certification, and Signature of the Person Preparing This Application, if Other Than the Applicant

If someone helped the applicant complete the N-400, the person who prepared the application should complete this section.[96]

Also, USCIS could interpret that the regulation 8 CFR § 1003.102(t) requires all attorneys and DOJ accredited representatives to complete a Form G-28 and sign the N-400 application form if they assisted with the preparation of the form, which is defined as giving legal advice and could include helping with the completion of the N-400 form.

NOTE: If an application was completed during a group processing event, such as a citizenship workshop, then the sponsoring organization and representative can provide their name, address, contact information, and signature for the interpreter section (Part 12) and preparer section (Part 13).[97] This information must be handwritten or typed as USCIS will no longer accept stamps or stickers in Parts 12 and 13.[98]

Parts 15–16. Signature at Interview and Oath of Allegiance

These parts of the application should **not** be filled out by the applicant before submitting their application. An applicant should complete these sections at the interview only, if and when the USCIS officer instructs them to do so.[99]

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About the Immigrant Legal Resource Center

The Immigrant Legal Resource Center (ILRC) works with immigrants, community organizations, legal professionals, law enforcement, and policy makers to build a democratic society that values diversity and the rights of all people. Through community education programs, legal training and technical assistance, and policy development and advocacy, the ILRC's mission is to protect and defend the fundamental rights of immigrant families and communities.

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[96] *See id.*
[97] *See* USCIS, *Instructions for Applicants Receiving Assistance at Group Processing Events* (Feb. 9, 2017), https://www.uscis.gov/forms/instructions-applicants-receiving-assistance-group-processing-events.
[98] *Id.*
[99] 8 CFR § 335.2(e).