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March 25, 2024

Samantha Deshommès  
Chief, Regulatory Coordinator  
Division Office of Policy and Strategy  
U.S. Citizenship and Immigration Services  
Department of Homeland Security  
Re: Comment in Response to the DHS/USCIS Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Medical Certification for Disability Exceptions; DHS Docket No. USCIS-2008-0021; OMB Control Number 1615-0060.

*Submitted via Regulations.gov*

Dear Chief Deshommès,

The Immigrant Legal Resource Center (ILRC) submits the following comment in response to the Department of Homeland Security’s (DHS) Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Medical Certification for Disability Exceptions, published on February 29, 2024.

The ILRC is a national non-profit organization that provides legal trainings, educational materials, and advocacy to advance immigrant rights. The ILRC’s mission is to work with and educate immigrants, community organizations, and the legal sector to continue to build a democratic society that values diversity and the rights of all people. Since its inception in 1979, the ILRC has provided technical assistance on hundreds of thousands of immigration law issues, trained thousands of advocates, and pro bono attorneys annually on immigration law, distributed thousands of practitioner guides, provided expertise to immigrant-led advocacy efforts across the country, and supported hundreds of immigration legal non-profit organizations in building their capacity.

The ILRC also leads the New Americans Campaign, a national non-partisan effort that brings together private philanthropic funders, leading national immigration and service organizations, and over two hundred local services providers across more than 20 different regions to help prospective Americans apply for U.S. citizenship. Through our extensive naturalization network with service providers, immigration practitioners and immigration benefits applicants, we have developed a profound understanding of the barriers faced by low-income immigrants of color seeking to naturalize. As such, we welcome the opportunity to provide comments on Form N-648, Medical Certification for Disability Exceptions.



We have previously commented to USCIS our approval of the major revisions of the N-648 that took place in October 2022.<sup>1</sup> Overall, the revised form is clearer, more succinct, and substantially less burdensome than the prior version. Those changes were welcomed as many barriers to eligible applicants were removed by removing redundant and irrelevant questions from the N-648, and by shortening the form so that it was less daunting to medical professionals and applicants. However, we expressed at that time that the inclusion of an oath waiver question for the first time on the N-648 was inadvisable, as it dealt with a separate section of law, has different requirements, and the medical professional has no background in the oath of allegiance. We continue to have that concern.

We remain concerned by Part 4, Question 1: “Is the applicant able to understand and communicate that they understand the meaning of the Oath of Allegiance to the United States?” This question asks the medical professional to make a judgement on the applicant’s ability to understand the oath of allegiance for naturalization. The medical professional signing the N-648 will have no professional knowledge of what the oath contains or what an oath waiver entails, nor how an oath may legally be modified or simplified for an appropriate applicant. The question of the oath waiver was not previously included in the N-648, as it is based on a separate law and is requested through a separate process but was added to the form in 2022.

Congress intended to make an oath waiver available to disabled applicants by explicitly changing the statute to allow that in 2000.<sup>2</sup> This was an entirely separate law than the 1994 naturalization disability waiver that can waive the English/Civics requirement.<sup>3</sup> These two laws should not be conflated by asking a medical professional who is required to assess the ability to learn English and/or civics to also judge whether an oath of allegiance can be understood, thus determining whether an oath waiver is needed. The addition of this question will likely lead to many unnecessary oath waiver requests. The medical professional completing the N-648 is asked to assess a disability and its impact on the naturalization applicant’s ability to learn English/civics. The medical professional has no knowledge of the separate oath requirement or the oath waiver, which is intended for a subset of applicants who are so profoundly disabled that they cannot understand or assent to the oath even if it is vastly simplified as an accommodation.<sup>4</sup> The legislative history of the oath waiver shows that the persons it was intended for are those who were non-communicative, such as those who were in a coma or vegetative state.<sup>5</sup> Many persons who qualify for a waiver of the English/civics requirement due to a disability will, in fact, be able to understand an oath with an accommodation, but the medical professional will have no knowledge of what this waiver is intended for and who actually needs it, thus they may check “no” in Part 4 of the N-648 and subject the applicant to the battery of requirements that USCIS imposes on oath waivers.

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<sup>1</sup> ILRC, Letter to USCIS on Recent Improvements to the Naturalization Disability Waiver (N-648) (Oct. 26, 2022) <https://www.ilrc.org/resources/ilrc-letter-uscis-recent-improvements-naturalization-disability-waiver-n-648> .

<sup>2</sup> INA § 337(a). Pub. L. 106–448 (July 12, 2000).

<sup>3</sup> INA 312(b)(1). Section 108 of the Immigration and Nationality Technical Corrections Act of 1994, Pub. L. 103-416 (Oct. 25, 1994).

<sup>4</sup> The USCIS Policy Manual describes the accommodations that allow simplified language that can be allowed for the oath, as well as alternative methods of communication such as non-verbal blinking or tapping. 12 USCIS-PM C.3, <https://www.uscis.gov/policy-manual/volume-12-part-c-chapter-3>.

<sup>5</sup> 146 Cong. Rec. S6121, S6122; Bureau of Citizenship and Immigration Services (BCIS), William R. Yates, *Procedures for Implementing the Waiving of the Oath of Renunciation and Allegiance for the Naturalization of Aliens Having Certain Disabilities* (June 30, 2003). For a review of the legislative history of the oath waiver see, ILRC, *Naturalization: The Oath of Allegiance Waiver for Persons with Severe Disabilities* (Jan. 2024) [https://www.ilrc.org/sites/default/files/2024-01/01-24%20Naturalization\\_SDP%20allegiance%20oath%20waiver.pdf](https://www.ilrc.org/sites/default/files/2024-01/01-24%20Naturalization_SDP%20allegiance%20oath%20waiver.pdf).

If an oath waiver is requested the applicant will need to have a qualifying U.S. citizen relative who is also a primary caregiver or a court-ordered legal guardian, surrogate or designated representative act on their behalf.<sup>6</sup> Many applicants do not have one of the limited U.S. citizen relatives currently allowed by the USCIS Policy Manual to act for them in this process, nor do they have the time or funds available to go through a lengthy court-ordered guardian or representative process.

We recommend that USCIS eliminate the question about the oath of allegiance from the N-648, since the waiver of the English/civics requirement is the focus of this form, and the underlying law is separate from that of the oath requirement and its waiver.

Additionally, we request again that USCIS alter both the governing regulations and USCIS Policy Manual<sup>7</sup> to expand the definition of “Authorized Medical Professionals” to include nurse practitioners and other medical professionals who are licensed and **“experienced in diagnosing those with physical or mental medically determinable impairments.”**<sup>8</sup> Many of those applicants who require a disability exception regularly see and are treated by medical professionals that do not fall into one of the enumerated categories and expanding the definition would allow for the medical professional who knows the applicant best, to provide information on their qualification for a disability waiver. By prioritizing the medical professional who regularly treats the applicant, the agency will allow for a more complete and accurate accounting of the applicant’s basis for a waiver and reduce the numbers of insufficient N-648s received. This will cut back on processing times and the need for Requests for Evidence, thereby reducing the strain on the agency’s resources and adjudicators.

We urge USCIS to consider these suggestions and amend Form N-648. Again, we are appreciative of the many positive changes that the agency has completed in this area and encourage USCIS to maintain those changes while also addressing the concerns we have raised here.

Please reach out to Elizabeth Taufa, [etaufa@ilrc.org](mailto:etaufa@ilrc.org), if there are any questions.

Sincerely,  
*/s/Elizabeth Taufa*  
Elizabeth Taufa  
Policy Attorney and Strategist

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<sup>6</sup> This limited list of persons who can act in place of a disabled applicant are in 12 USCIS-PM C.3.A.4 and 12 USCIS-PM J.3.C.2.

<sup>7</sup> USCIS PM 12.E.3.D.

<sup>8</sup> 8 CFR § 312.2(b)(2).