Rules and Regulations

Federal Register
Vol. 62, No. 53
Wednesday, March 19, 1997

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 229, 312, and 499

[INS No. 1702–96]

RIN 1115–AE02

Exceptions to the Educational Requirements for Naturalization for Certain Applicants

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule with request for comments.

SUMMARY: This final rule amends the Immigration and Naturalization Service (the Service) regulations relating to the educational requirements for naturalization of eligible applicants under section 312 of the Immigration and nationality Act (the Act), as amended by the Technical Corrections Act of 1994. This amendment provides an exception from the requirements of demonstrating an understanding of the English language, including an ability to read, write, and speak words in ordinary usage, and of demonstrating a knowledge and understanding of the fundamentals of the history, and of the principles and form of government of the United States, for certain applicants who are unable to comply with both requirements because they possess a ''physical or developmental disability'' or a ''mental impairment.'' The final rule establishes an administrative process whereby the Service will adjudicate requests for these exceptions while providing the public with an opportunity to comment on portions of the adjudicative process which the Service is altering in response to public comments from the previously published proposed rule.

DATES: This final rule is effective March 19, 1997. Written comments must be submitted on or before May 19, 1997.

ADDRESSES: Please submit written comments in triplicate to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street, NW., Room 5307, Washington, DC 20536. To ensure proper handling, please reference INS number 1702–96 on your correspondence. Comments are available for public inspection at the above address by calling (202) 514–3048 to arrange an appointment.

FOR FURTHER INFORMATION CONTACT: Craig S. Howie or Jody Marten, Adjudications and Nationality Division, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536, telephone (202) 514–5014.

SUPPLEMENTARY INFORMATION:

Background

On October 25, 1994, Congress enacted the Immigration and Nationality Technical Corrections Act of 1994. Section 108(a)(4) of the Technical Corrections Act amended section 312 of the Act to provide an exemption to the United States history and government (''civics'') requirements for persons with ''physical or developmental disabilities'' or ''mental impairments'' applying to become naturalized United States citizens. This exception complemented an existing exception for persons with disabilities with regard to the English language requirements for naturalization. Enactment of this amendment marked the first time Congress authorized an exception from the civics requirements for any individual applying to naturalize.

The Technical Corrections Act did not specifically define the terms developmental disability, mental impairment, or physical disability. Congress did, however, provide limited guidance for defining these terms in the Report of the House of Representatives Committee on the Judiciary, H. Rep. 103–387, dated November 20, 1993. Based in part on the language of this report, the Service provided preliminary guidance to field offices on November 21, 1995, defining the three categories of disabilities and requiring disabled persons seeking an exception from the section 312 requirements to obtain an attestation verifying the existence of the disability from a designated civil surgeon.

On August 28, 1996, the Service published a proposed rule at 61 FR 44227–44230 proposing to amend 8 CFR part 312 to provide for exceptions from the section 312 requirements for persons with physical or developmental disabilities or mental impairments. In the preamble to the proposed rule, the Service noted that these exceptions were not blanket waivers or exemptions for persons with disabilities. Creation of blanket waivers would be contrary to the requirements of section 504 of the Rehabilitation Act, which provides for equal (with modifications/accommodations) but not special treatment for disabled persons in the administration of Justice Department programs. The proposed rule provided that an exception would only be granted to those individuals with disabilities who, because of the nature of their disability, could not demonstrate the required understanding of the English language and knowledge of United States civics, even with reasonable modifications or accommodations.

The Service proposed that all disability eligibility determinations be based on medical evidence in the form of individual, one-page assessments by civil surgeons or qualified individuals or entities designated by the Attorney General, attesting to the existence of the applicant's disability. As is the case with virtually all Service adjudications for benefits, it was noted that it is the responsibility of the disabled person applying for naturalization to provide the documentation necessary to substantiate the claim for a disability-based exception.

The Service noted that it would comply with section 504 of the Rehabilitation Act of 1973 by providing reasonable modifications and/or accommodations to its testing procedures for applicants with disabilities. In addition, the Service noted that an applicant would be deemed unable to participate in the testing procedures only in those situations where there are no reasonable modifications that would enable the applicant to participate.

After the Service completed digesting the comments received from the public and after meeting with other federal benefit-granting agencies with extensive experience in administering disability

related programs, it became clear that considerable changes would be made to the proposed rule. As such, the Service is implementing the policies contained in this rule while also seeking additional comments from the public addressing our changes.

Discussion of Comments

The Service received 228 comments from a variety of sources, including federal and state governmental agencies, disability rights and advocacy organizations, and private individuals. While the Service has identified 11 specific comment areas that warrant discussion, the majority of comments address three specific areas relating to the proposed rule, in particular, the definitions of the disabilities proposed by the Service at §§ 312.1(b)(3)(i) and 312.2(b)(1)(i), the use of the civil surgeons as the medical professionals making the disability determinations at §312.2(b)(2), and the other statutory requirements for naturalization. The Service also notes that of the 228 comments, 46 were in the form of two separate ''form memoranda'' which the Service speculates were circulated among commenters. Some commenters attached these memoranda to a cover letter, while others placed the form memorandum onto their own letterhead. An additional 12 form letters, all from the same social services agency yet signed by various staff, were also received.

The Service appreciates the overall in-depth comments that were received, especially from other federal agencies and various disability advocacy organizations. All these comments have assisted the Service in understanding matters of concern to the disabled community, a constituent group that until now the Service has only interacted with on a limited basis. The following is a summarized discussion of the comments, opening with an issue statement, followed by a summary of the public comments, and concluding with the Service response. The discussions are listed in order according to the volume of comments received for each topic.

Definitions of the Disabilities

Issue. Should the Service change the definitions noted in the proposed rule to comport with existing federal statutes and regulations? The Service proposed to amend §§ 312.1(b)(3)(i) and 312.2(b)(1)(i) of 8 CFR with definitions of physical disability, developmental disability, and mental impairment based upon the language of the legislative history as noted in H.R. No. 103–387. These definitions included provisions which excluded disabilities that were temporary in nature, that were not the result of a physical or organic disorder, or that had resulted from an individual's illegal use of drugs. H.R. No. 103–387 did not clarify whether the Congress was referring to the abuse of illegal drugs or legal drugs. Each definition included language which specified that the disability must render the individual unable to fulfill either the requirements for English proficiency or to participate in the civics testing procedures even with reasonable modifications.

Summary of public comments. The disability definitions received 138 comments, the largest number of specifically referenced comments. The majority of commenters noted that while it was appreciated that the Service was attempting to follow the intent of Congress, as based on the limited legislative history, it was the obligation of the Service to use definitions already in existence and that comport with existing federal statutes. In particular, 62 comments directly referenced the position that the Service is required to use existing definitions that comport with other federal statutes, such as definitions found in the Americans With Disabilities Act and the Developmental Disability, Services, and Bill of Rights Act of 1978. These commenters also expressed particular concern over the proposed definition of developmental disability. They noted how there is disagreement within the medical community as to whether certain disabilities, such as mental retardation, are indeed developmental in nature as opposed to being a mental impairment.

As noted previously, the Service, in following the legislative history, excluded disabilities in the proposed definitions that were acquired (to exclude persons whose disability was the result of the illegal use of drugs) or disabilities non-organic or temporary in nature. Of the comments addressing the definitions, 39 specifically admonished the Service to revisit this decision. According to these commenters, by adopting the definitions as listed in the proposed rule, the Service would be excluding a large number of disabled naturalization applicants. For example, individuals suffering from Post Traumatic Stress Disorder or individuals whose disability resulted from an accident would not be covered by the definitions as proposed by the Service, in that both these disabilities are acquired. An additional 18 commenters noted that the definitions proposed by the Service were too narrowly drawn. They repeated the argument that by enacting such narrowly drawn definitions the Service would potentially exclude large numbers of disabled individuals who might qualify for these Congressionally mandated exceptions.

Eight commenters noted that the Service had not included specific references to particular disabilities in the proposed rule. It was therefore suggested that the Service modify its definitions to include particular disabilities such as mental retardation and deafness and particular diseases such as Alzheimers to the language of the final rule. One commentator noted that the seriously ill should be considered physically disabled for the purposes of gaining an exception to the section 312 requirements.

Ten separate commenters noted that the proposed language of the disability definitions would not take into consideration persons with combination disabilities. It was cited that while an individual with combination disabilities might not meet the criteria for an exception in a single category, the individual's combination of disabilities might prevent them from being able to meet the requirements of section 312, even with reasonable modifications. An example given noted that an individual with mild dementia who also suffers from hearing loss or blindness may not be able to learn the required English and civics information. Taken singularly, these disabilities might not automatically warrant an exception for the individual. However when combined, the commenters agreed on the likelihood of the individual being unable to satisfy the requirements of section 312 increase, and thus may warrant the granting of an exception.

Response. The Service has devoted considerable time in evaluating the comments addressing the disability definitions, and has consulted with other federal agencies whose experience in developing and implementing disability-related benefit programs is much more extensive than that of the Service (notably the Department of Health and Human Services and the Social Security Administration). The Service has also revisited the exact language of the Act at section 312 as well as the legislative history.

As noted, the Service has consulted with the Social Security Administration (SSA) since the publication of the proposed rule in order to gain a better understanding of disability-related programs in general. While the criteria upon which the SSA renders an individual disabled for an SSA financial benefit (the focus on an individual's inability to support themselves

financially) is wholly different from the Service adjudication process for an Immigration and Nationality Act benefit, the Service finds no compelling reason why the definitions upon which these adjudications are based should not be standard between the two agencies.

Therefore, the Service is modifying the proposed rule with regard to the definitions of the disabilities as found at § 312.1(b)(3)(i) and § 312.2(b)(1)(i). The Service is electing to use language that for the most part comports with the regulatory language utilized by the SSA. In the revised language, the three categories of disabilities as noted in the Act are not specifically mentioned but are referenced as medically determinable physical or mental impairment(s), thereby using accepted medical and regulatory language already enacted and found within the SSA regulations. Modifications have been made to SSA's suggested language in order to maintain the Congressional intent that individuals whose disabilities are the result of the illegal use of drugs not be eligible for an exception to the section 312 requirements.

Also included in the regulatory language are provisions to recognize combination impairments, as suggested by commenters and in keeping with the standards used by the SSA. However, the Service has elected not to include specific references to particular disabilities within the regulatory text found in §§ 312.1(b)(3) and 312.2(b)(1). The Service believes that inclusion of particular named disabilities could have the possible effect of limiting the scope of the proposed exceptions. In other words, some disabled applicants, not seeing their particular disability noted in the text of 8 CFR part 312 might not believe they are covered by the potential exception and thus might not attempt to gain an exception even though they might be fully eligible.

By adopting these changes, the Service is addressing the public's concern regarding the proposed regulation's consistency with existing federal regulations and statutes. We are also ensuring that the particular concerns that Congress elected to include in the legislative record are observed, while acknowledging that adopting a broad definition of disability is mandated by the Act. However, the burden will still be on the applicant, via the medical certification, to demonstrate to the satisfaction of the Service how the disability prevents the applicant from learning the information required by section 312 of the Act. The Service believes that it is possible to create a humane process without creating a blanket exception policy within the regulatory language and within the administration of this program. As previously noted, creation of a blanket exception would have the tacit effect of perpetuating the stereotype that persons with disabilities are unable to participate fully in mainstream activities and would thus be contrary to the provisions of section 504 of the Rehabilitation Act of 1973.

Disability Determinations: Use of the Civil Surgeons and Creation of a From

Issue. Should disabled applicants be required to be examined by a civil surgeon in order to obtain a disability certification? In the proposed rule a 8 CFR 312.2(b)(2), the Service noted that disabled applicants desiring a disability exception to the requirements of English proficiency and civics must submit medical certification attesting to the presence of the disability, executed by a designated civil surgeon or qualified individuals or entities designated by the Attorney General. The Service did not define the terms qualified individuals or entities, but did specifically request public comments on the requirements of the medical certification process and in particular on the circumstances under which the Service should consider the use of qualified individuals or entities other than civil surgeons.

Summary of public comments. The public responded with 125 comments directly addressing this aspect of the proposed rule. The majority of commenters had concerns over the use of civil surgeons. It was noted by 101 commenters, including HHS (the controlling federal agency for civil surgeons), that the majority of civil surgeons are in general family practice and thus not experienced in making complex disability determinations. In addition, it was noted that civil surgeons currently base the majority of their examinations for the Service on matters relating to the admissibility of immigrating aliens and communicable diseases. This diagnosis of communicable diseases does not relate to the disability determination process, according to these commenters.

Many commenters, acknowledging the Service's need to maintain integrity in the medical determination process, noted that it would be imposing a great burden on the disabled applicant to limit the attestation process to only civil surgeons and the unknown ''qualified individuals or entities.'' Forty-seven commenters therefore directly requested the Service to allow disabled applicants to use the medical services of the person's attending physician medical specialist or clinical case worker rather than mandating an examination by a civil surgeon. Several of these commenters also noted that the Service must consider the stress potentially placed on persons with mental impairments if forced to undergo an examination by someone other than their own physician.

In addition to the above noted reasons offered for not limiting the medical certification process to the civil surgeons, 25 commenters stated that the pool of civil surgeons was too small to adequately serve all disabled applicants who might attempt to avail themselves of the disability exceptions. The small pool of civil surgeons could potentially result in disabled applicants having to wait months for appointments.

It was noted by 10 commenters that the cost of going to a civil surgeon could be prohibitive for many persons with disabilities on fixed incomes or public assistance, especially if the civil surgeon is required to consult with medical professionals who specialize in disabilities prior to issuing a certification. Commenters noted that the Service should take this factor into consideration prior to finalizing any policy that would require the predominant use of civil surgeons in the disability determination process. Six commenters noted that the Service should be obliged to provide disabled applicants with lists of bilingual physicians qualified to render the necessary disability certification, and one commenter requested that the Service compose lists of specialists, such as psychiatrists and clinical case workers, that disabled applicants could use in locating a medical professional qualified to make the disability certification.

Three commenters requested the Service to abandon the proposed certification process altogether and adopt a procedure similar to that currently utilized by the SSA in making disability determinations. Another commenter stated that the certification process should be changed, and suggested that disability determination authority be given to the district director in every local Service office. According to this writer, this policy would dissuade a large number of individuals who view the section 312 disability exceptions as a means of avoiding the English language statutory requirement.

Response. In determining a final policy for the disability determination process, the Service acknowledges that it must be responsive to the needs of the applicant base, especially the needs of persons with disabilities. However, it is also the obligation of the Service to balance these needs with the necessity

of maintaining integrity in the disability determination process. Only one commenter addressed the fact that the Service will be faced with instances of fraud in the administration of this program and that the Service must be ever-vigilant when non-disabled applicants attempt to present themselves to the Service as disabled and therefore eligible for a disability exception. Having a structured process for the determination of a disability is critical to the Service's obligation to maintain an adjudicative process with integrity.

The Service has concluded that the public is justified in its concern over the near exclusive dependence on the civil surgeons in the disability determination process. Therefore, the Service is proposing to eliminate all references to the use of the civil surgeons in the determination process. (However, any civil surgeon meeting the criteria outlined below will be able to make a disability determination, but based on the surgeon's expertise with a particular disability, not on the fact that he or she is a civil surgeon.)

The Service is proposing that only medical doctors licensed to practice medicine in the United States (including the United States territories of Guam, Puerto Rico, and the Virgin Islands), which includes medical doctors with specialities such as board certified psychiatrists, and clinical psychologists licensed to practice psychology in the United States (including the United States territories of Guam, Puerto Rico, and the Virgin Islands) who are experienced in diagnosing disabilities, make the determinations that will be used by the Service. This policy will address the concerns of the public regarding the use of civil surgeons, the perception that the available pool of civil surgeons is too small to meet the needs of the disabled community, and the possible high cost of medical visits to several doctors in order to verify the existence of a disability. This determination process will be effective upon publication of this rule while the Service also investigates other possible methods for having disabled applicants gain a disability certification from professionals within the medical community.

The selective list of licensed health care providers eligible to render a disability determination is critical to the Service obligation that fraud not corrupt this program or the adjudicative process. Further safeguards can be found in the proposal of the Service to require the medical professional making the disability determination to (1) sign a statement that he or she has answered all the questions in a complete and truthfulmanner and agrees, with the applicant, to the release of all medical records relating to the applicant that may be requested by the Service, and (2) an attestation stating that any knowingly false or misleading statements may subject the medical professional to possible criminal penalties under Title 18, United States Code, Section 1546. Title 18, United States Code, Section 1546 provides in part:

> * * * Whoever knowingly makes under oath, or as permitted under penalty of perjury under Section 1746 of Title 28, United States Code, knowingly subscribes as true, any false statement with respect to a material application, affidavit, or other document required by the immigration laws or regulations prescribed thereunder, or knowingly presents any such application, affidavit, or other document containing any such false statement—shall be fined in accordance with this title or imprisoned not more than ten years, or both.

In addition to the criminal penalties of Title 18 noted above, the applicant and licensed medical professional are subject to the civil penalties under section 274C of the Act, Penalties for Document Fraud, 8 U.S.C. 1324c.

The Service has many concerns over the preservation of integrity but cannot expect the public to wait for the implementation of a possible alternative determination process. Other federal agencies have advised the Service that their experience with accepting documentation from attending physicians has in some instances been negative. For this reason, the Service has elected to reserve the right to request additional medical records relating to the applicant's disability if the Service has reason to question the disability determination or certification.

The Service is also reserving the right to refer the applicant to another authorized licensed health care provider for a supplemental disability determination. This option will be invoked when the Service has credible doubts about the veracity of a medical certification that has been presented by an applicant. The Service will likely be faced with cases where non-disabled individuals, fully capable of meeting the functional English and United States civics requirements of section 312, will attempt to gain a disability exception. Therefore, the Service must be free to use reasonable means to prevent fraud in the disability determination process and to ensure that the integrity of United States citizenship is preserved.

The Service notes that it is not the responsibility of this agency to provide disabled applicants with lists of bilingual medical professional, nor is it the responsibility of the Service to provide lists of licensed health care providers qualified to perform the disability determinations. The burden is on the applicant to provide the documentation deemed necessary for the Service to make a determination as to the qualification of the applicant for any benefit requested under the Act.

The public must also note that the naturalization program is financed entirely by the fees paid by the naturalization applicant. No congressionally appropriated funds are dedicated to the naturalization adjudicative process. The creation or any alternative determination process would need to be financed either by the user fees paid by applicants or by other as yet unidentified non-fee sources of funding. The Service desires to learn the public viewpoint on various alternative disability determination processes.

In its proposed rule, the Service specifically requested public comments on the requirements for the medical certification. Only two commenters made specific suggestions that the Service would better serve the public as well as its own interests by creating a new public use form. Initially, the Service proposed that the medical professional making the certification issue a one-page document, attesting to the origin, nature, and extent of the applicant's condition as it relates to the disability exception. The certification was specified to be only one page in an attempt to keep applicants from submitting entire medical histories that the Service has no experience with or capacity to achieve.

The Service has determined that the creation of a new public use form will be a benefit to both the Service and the public. In particular, creation of a form will take the burden off both the applicant and the licensed medical professionals with regard to information dissemination. The form's instructions will include complete explanations of the disability categories and define which licensed medical professionals can execute the certification. A new form will allow the licensed medical professionals to state simply, via reference to the instructional guidelines, how the applicant's disability prevents the applicant from learning the information needed to fulfill the requirements of section 312 of the Act. The form will also allow the licensed medical professional an opportunity to comment on how their particular medical experience qualifies them to render complex disability assessments.

As previously noted, the Service also believes that a form will ensure the

integrity of the disability determination process (a vital concern of the Service) by requiring the licensed medical professionals to sign and declare that the examination and certification is accurate under penalty of perjury. The new form will also allow for the submission of additional background medical documentation, upon request of the Service, which may reduce the likelihood of fraud. Lastly, Service offices will be advised, and the public should note, that the Service will accept photocopies of the new Form N–648, Medical Certification for Disability Exceptions, until the form becomes fully available to the public.

Other Naturalization Requirements

Issue. Must disabled naturalization applicants meet the other requirements for naturalization, including the ability to take an oath of renunciation and allegiance? In order for an applicant for naturalization to be approved, the Service must be satisfied that the applicant has met the requirements as stipulated in the Act. The 1994 Technical Corrections Act amended the Act regarding the requirements found in section 312, but did not amend the requirements found in section 316 (Requirements as to Residence, Good Moral Character, Attachment to the Principles of the Constitution, and Favorable Disposition to the United States). Neither did it amend section 337 (Oath of Renunciation and Allegiance). Therefore, the Service did not address any of the other requirements for naturalization in the proposed rule.

Summary of Public Comments. While the Service did not address the other requirements for naturalization, 92 commenters did make direct references to these requirements. The vast majority of these writers (89 of the 92) stated that it was incumbent upon the Service to waive the other naturalization requirements for applicants with disabilities, in particular the oath of allegiance. Commenters stated that the intent of Congress was to relieve the disabled from requirements they could not be expected to meet, to remove barriers in the naturalization process for the disabled applicant, and not to create an additional test whereby disabled applicants would in effect be tested on their ability or capacity to take the oath.

Writers stated that while Congress did not directly address the issue of the other requirements for naturalization, it was the obligation of the Service to comply with Congressional intent and waive the oath requirement. These commenters stated that by not waiving the oath, the Service would place the disabled applicant in a situation of being exempt from the civics requirements of section 312, but required to have a working knowledge of civics in order to take and understand the oath of allegiance. Writers further stated that this situation of exempting certain requirements but holding the disabled applicant to other requirements would be a violation of the Rehabilitation Act of 1973 and the Department of Justice regulations. These regulations prohibit the government from utilizing ''criteria or methods of administration the purpose or effect of which would * * * (ii) Defeat or substantially impair accomplishment of the objectives of a program or activity with respect to handicapped persons.'' (28 CFR 39.130(b)(3))

These writers noted it was not only the obligation of the Service to follow Congressional intent, but that the Service has the authority to waive the oath requirement for any applicant under the Service authority to naturalize applicants via the administrative naturalization process. This administrative naturalization authority was given to the Service by Congress as part of the Immigration Act of 1990. Twenty of these writers also suggested that the Service consider the alternative idea of allowing a family member, legal guardian, or court appointed trustee to stand in for the disabled applicant during the administration of the oath. This would in effect create an oath by proxy procedure, available to the disabled applicant when the disability prevents the applicant from understanding the language of the oath.

Two writers stated that the Rehabilitation Act of 1973 and companion disability-related statutes were enacted to ensure fairness to disabled persons with regard to employment and physical accessibility. Therefore, they do not relate to the naturalization process. These commenters stated that the other naturalization requirements, in particular the oath, are mandatory and should not be waived for any applicant, disabled or not. One additional writer suggested that the Service seek clarification from congress on the issue of disabled applicants unable to meet all the requirements for naturalization.

Response. The Service did not address the issue of the oath in the proposed rule since Congress did not amend section 337 of the Act in the 1994 Technical Amendment Act. However, the Service realizes the concern that exists within the disability community as to this naturalization requirement.

The Service already makes reasonable accommodations in cases where individuals are unable, by reason of a disability, to take the oath of allegiance in the customary way. For example, it is the common practice of all Service offices to conduct naturalization interviews and to administer the oath of allegiance outside of the local Service office in instances where the applicant is either home-bound or confined to a medical facility. Such accommodations remain available for disabled individuals who signal their willingness to become United States citizens and to give up citizenship in other countries.

Acceptance of Disability Certifications From Other Government Agencies

Issue. Should the Service accept disability certifications issued by other government agencies? In the proposed rule at § 312.2(b)(2), the Service noted that it may consult with other federal agencies in determining whether an individual previously determined to be disabled by another federal agency has a disability as defined in the proposed rule language. This consultation could be used in lieu of the Service-required medical certification.

Summary of public comments. Thirty-eight commenters stated that the Service should be obligated to accept a certification of a disability from a federal or state governmental agency in lieu of having the disabled naturalization applicant seek an additional medical certification.

*Response.*The Service has consulted with other federal agencies regarding this matter. It was pointed out to the Service that with most agencies, the determination of a disability leads to either a financial or medical benefit. The SSA noted that the criteria they review prior to granting an individual a disability benefit (in particular, can the person work and thus support themselves financially) is entirely different than the requirements that all applicants applying for naturalization must meet. In addition, a disability which might render an individual eligible for a financial or medical benefit from another federal or state agency may not in all cases render the same individual unable to learn the information required by section 312 of the Act.

After careful review, the Service has determined that it will not accept certifications form other government or state agencies as absolute evidence of a disability warranting an exception to the requirements of section 312. However, and as noted in the proposed rule, the Service reserves the right to consult with other federal agencies on cases

where an applicant has been declared disabled. The Service notes that the unquestioned acceptance of another agency's disability determination would equate to a blanket waiver of the section 312 requirements for anyone with a disability that has been so recognized by another agency. Such a blanket waiver, based on stereotypical speculation that persons with disabilities are unable to participate in mainstream activities, is contrary to the provisions of section 504 of the Rehabilitation Act of 1973.

Appeal Language

Issue. Should a special appeal procedure be created for disabled naturalization applicants?

Summary of public comments. Twenty-six commenters noted that in the proposed rule, the Service failed to include any references to an appeal procedure for a disabled naturalization applicant who is denied naturalization based on the Service not accepting a medical certificate attesting to a disability. Six of these commenters stated that since Service officers were not medical professionals, they should be obliged to accept a medical certificate. These same commenters additionally stated that any applicant's certificate that might be denied be afforded an immediate appeal to the local Service district director. Three commenters suggested that the Service be required to obtain independent medical evidence prior to denying any naturalization case, based on questions about the disability certification. Twelve commenters stated that the Service should be obligated to establish a separate appeal process for disabled applicants, also repeating the request that the appeal be forwarded immediately to the local Service district director.

Response. Many separate decisions comprise the overall adjudication of an individual's application for naturalization. One part of the overall adjudication will be acceptance or rejection of the applicant's N–648. This will not be a separate adjudication, entitled to its own set of appeal rights and procedures, but a part of the entire N–400 approval or denial process.

All applicants seeking to naturalize, including disabled applicants, may avail themselves of the hearing procedure already in place in the event the naturalization application is denied. Applicants may request a hearing on a denial under the provision of section 336 of the Act. The regulations governing these hearings are found at § 336.2. The review hearing will be with other than the officer who conducted the original examination and who is classified at a grade level equal to or higher than the grade of the original examining officer. Applicants may submit additional independent evidence as may be deemed relevant to the applicant's eligibility for naturalization. If the denial is sustained, the applicant may seek de novo reconsideraiton in federal court. With the additional training Service adjudication officers will receive regarding disabilities and the disability-based exception to the requirements of section 312, the Service is of the opinion that in the interim, the current hearing procedure for a denied naturalization application is sufficient.

In the interest of making an accommodation, the Service is considering a modification to the current hearing procedure. The procedure under consideration contemplates using the current hearing process augmented with an independent medical opinion on the disability finding. This opinion could be issued by a medical professional that the applicant has been referred to by the Service, especially in instances where the Service officer questions the medical certification. An augmented hearing process would need to be financed through the user fees paid by the applicant or by other as yet unidentified non-fee sources of funding. As noted previously, the naturalization program is entirely funded by user fees, with no additional funding appropriated by the Congress. The Service welcomes additional public comments on this idea. However, such a procedure would necessitate a separate regulatory amendment to 8 CFR 336.2

Reasonable Modifications/ Accommodations, Special Training, and Quality Control

Issue. Should examples of reasonable modifications and accommodations to the naturalization testing procedure be included in the language of the regulation? Noted in the preamble to the proposed rule were statements that pursuant to section 504 of the Rehabilitation Act of 1973, the Service would make reasonable modifications and accommodations to its testing procedures to enable naturalization applicants with disabilities participation in the process.

Summary of public comments. Twenty-two commenters raised specific references to the modifications and accommodations. In particular, commenters felt that the Service should include in the text of the final rule examples of the modifications or accommodations which might be afforded the disabled applicant during the testing and interview process. Writers stressed that appropriate modifications depend upon the applicant's individual needs. One commenter stated that it would be more efficient for the Service to interview persons with disabilities off-site rather than modifying each officer's work station in each Service office for complete disability access.

Response. The Service is in full compliance with its obligations under section 504 of the Rehabilitation Act and provides accommodations and modifications to the testing procedures when required. The Service currently makes regular accommodations and modifications for disabled applicants for the full range of its services.

However, the Service has reservations about including language within the text of the regulation detailing specific accommodations or modifications. It is the opinion of the Service that the appropriate place for such language is in the accompanying field policy guidance and instructions that will be distributed to all Service offices upon publication of this final rule. Service offices are routinely reminded of the obligations section 504 places on all governmental agencies regarding accommodating persons with disabilities. The Service notes that it is current Service policy to conduct off-site testing, interviews, and where authorized, off-site swearing-in ceremonies in appropriate situations.

Four commenters suggests that the Service create special training directed at Service officers in all local Service offices. This training would remind officer staff on their responsibilities under section 504 of the Rehabilitation Act and offer staff examples of exact modifications and accommodation to the testing procedures. An example might be in the officer taking into account the special testing needs of naturalization applicants with learning impairments. The Service agree with this suggestion and will initiate special training for local district office adjudication officers. Program staff at Service Headquarters are currently working on the creation of this training module and plan to provide this special training as close to the publication of the final rule as possible. The Service asks the public for suggested training methods which may be of value to the adjudication officers responsible for hearing those cases where the applicant is requesting a disability-based exception to the requirements of section 312.

In addition to the special training efforts that will be undertaken, the Service is committed to ensuring that substantial quality control mechanisms are followed regarding these disability-

related naturalization adjudications. Currently, all Service offices responsible for processing naturalization cases must comply with mandatory quality control procedures. These procedures include regular supervisory review of every stage of the naturalization process, from clerical data entry and final decision, to regular Form N–400 random samplings. These quality control procedures are not optional instructions that Service offices are encouraged to follow. These procedures are mandatory for every office. The Service is committed to ensuring that all naturalization cases are handled properly, administratively processed correctly, and adjudicated fairly.

The Service will supplement these current quality control procedures with additional procedures particularly directed at cased where applicants have requested an exception from the requirements of section 312. These procedures will include the previously referenced special training efforts for local Service adjudicators as well as supplemental random samplings of cases where the applicant has a disability and has requested an exception. The Service is currently investigating the possibility of entering into a contract with a private entity to perform these random samplings. Such an arrangement would ensure an unprecedented level of objectivity in reviewing disability-related cases. It would also allow the Service to gain independent medical viewpoints on these disability adjudications as well as opinions on medical certifications which may have been questioned by the local Service officer. The Service requests public comments on additional quality control methods which may assist the Service in ensuring that its disability related adjudications are fair and accurate.

Exemption of All Section 312 Requirements for the Elderly

Issue. Should the Service grant a total exemption to the elderly for the requirements of section 312 of the Act?

Summary of public comments. While the proposed rule did not address the issue of applicants over the age of 65 being exempted from all requirements of section 312, 16 commenters urged the Service to adopt such a policy. Writers based their requests on the assumption that applicants over the age of 65 are inherently unable to learn a new language or information on United States civics due to their advanced age. Therefore, commenters suggested a new policy whereby elderly applicants would have the naturalization requirements found under section 312 waived. One additional writer asked that the Service waive the English requirements for any legal immigrant attempting to naturalize.

Response. Section 312 of the Act offers no blanket exemption to applicants over the age of 65 with respect to the English proficiency requirements. Congress has afforded naturalization applicants over the age of 50 with 20 years of permanent residence and applicants over the age of 55 with 15 years of permanent residence an exemption from the English language requirements. Congress has not, however, expanded these exemptions to other groups. Congress has also granted ''special consideration'' to applicants over the age of 65 with 20 years of permanent residence regarding the civics knowledge requirements. (The Service will address the section 312 ''special consideration'' provisions in the overall regulatory revision of 8 CFR part 312).

The Service cannot create a new exemption category to the Act. Only the Congress has the authority to amend the Act. As such, the Service cannot act on this particular suggestion.

Treating Applicants With Disabilities With Compassion and Discretion

Issue and summary of public comments. The need for compassion and discretion in adjudicating disability naturalization cases. In the Service's preliminary guidance to field offices regarding section 312 disability naturalization cases, dated November 21, 1995, offices were reminded to use compassion and discretion in their dealings with disabled applicants. Fifteen commenters noted that this language was missing from the proposed rule and requested the Service to include said language in the text of the final rule.

Response. The Service understands the desire of the disabled advocacy community to have this language included in the final rule. However, the Service feels that such language is more appropriate for inclusion in the supplemental policy guidance that will be distributed to field offices upon publication of this rule. The special training previously mentioned that the Service will require for adjudication officers will also stress the need for compassion and discretion in dealings with all applicants for benefits under the Act.

A Single Test and Single Determination

Issue and summary of public comments. Should the Service use a single test and single determination process? Seven commenters noted that the proposed rule implies that there are two separate tests, due to the structure of the regulation which addresses English proficiency at § 312.1 and knowledge of United States civics at § 312.2. The Service was therefore urged to adopt a single test format. These commenters also suggest that the Service only require one determination for the medical certification process.

Response. The Service notes that while the current structure of the regulation features two distinct parts regarding English proficiency and knowledge of United States civics, current procedures do, in effect, offer applicants a single test. During the mandatory naturalization interview, the applicant's verbal English proficiency is determined by the spoken interaction between the adjudication officer and the applicant. Most civics testing is also done orally, which provides the adjudication officer with additional evidence of the applicant's English proficiency. The public should also note that in the Request for Comments contained in the proposed rule, the Service emphasized that the entire regulatory structure of 8 CFR part 312 was under review. Commenters' suggestions about combining the requirements of §§ 312.1 and 312.2 into one consolidated section shall be considered during the redrafting of 8 CFR part 312.

With regard to the request for a single determination of the disability, the Service will require each applicant requesting an exception to the requirements found at section 312 to submit a single medical certification. The certification should note the existence of the disability, and the recommendation of the medical professional that the applicant be exempted from the requirements of section 312. This certification must address, however, both the English proficiency and United States civics knowledge requirement and the applicant's inability to meet either one or both of the requirements. This is necessary since both requirements must be met in order for the individual to be naturalized, absent a waiver.

Expedited Processing for Applicants With Disabilities

Issue and summary of public comments. Should persons with disabilities be afforded expedited processing of their naturalization applications? Four commenters addressed the issue of expedited processing of naturalization applications for persons with disabilities. Three writers stated it was the obligation of the Service to expedite

these naturalization cases, in that the applicant's status with other government agencies regarding eligibility for social service benefits could be affected by the applicant's not being a United States citizen. One of these commenters suggested that the Service institute a 30-day processing window for disabled applicants, to ensure that the Service could grant the applicant any reasonable modification necessary to possibly take part in the normal testing procedure. One writer noted that the disabled should not be granted expedited processing in that such an accommodation would be inconsistent with current Service policy.

Response. The policy of the Service, found in the Operating Instructions at § 103.2(q), is to process all applications in chronological order by date of receipt. This procedure ensures fairness and equity for all applicants. The Service shall continue to observe this procedure with regard to naturalization applications from persons with disabilities. The public should note, however, that any applicant able to show evidence of an emergent circumstance may request an exception to this policy from the local district director. It is within the discretion of the district director to either grant or deny a request for expedited processing of any Service adjudication.

Miscellaneous Comments

Ten commenters implored the Service to take into consideration their particular personal circumstances surrounding disability naturalization cases currently or about to be submitted to the Service. While the Service has empathy for these writers, the proposed rule for which comments were solicited addressed procedural issues, not particular cases. The Service is confident that each of these individual cases will be adjudicated equitably when presented to an adjudications officer for review.

One writer expressed dismay that the Service was considering an exception to the section 312 requirements for certain disabled aliens attempting to naturalize. This writer stated that disabled aliens should be required to return to their native countries and that the United States should focus its attention on assisting native-born disabled citizens. The Service would note that the 1994 Technical Corrections Act mandates this change to the Services' regulations. The Service is obligated to follow the direction of the Congress when Congress so amends the Act.

One commenter suggested that the Service embark upon a media campaign in order to notify disabled persons about the provisions of this legislative change. The writer speculated that there is no method in existence by which the Service can notify the disabled community of this possible exception. Based on the number of comments received from various disabled rights advocacy groups, the Service is of the opinion that the vast majority of individuals who might benefit from this exception will have a means of being informed about the provisions of the exceptions. The Service would also note that it is working with the SSA on informational materials for all alien SSA beneficiaries who may wish to apply for naturalization.

One writer noted that the current application for naturalization, Form N–400, should be amended to include references to the disability related exceptions. The Service recognizes this problem and notes that the N–400 is currently under revision. Any revision will include information regarding the disability exceptions to the section 312 requirements and will be submitted to the Office of Management and Budget in accordance with the Paperwork Reduction Act.

Another commenter requested that the Service be flexible in adjudicating naturalization applicants from disabled persons. The Service has every intention of being flexible in these adjudications to the extent allowable under the law. The special training effort that will be instituted should assist the Service in meeting the goals of being flexible and fair in the adjudication of these naturalization applications.

Request for Comments

The Service is seeking public comments regarding the final rule. In particular, the Service is seeking comments regarding the modifications made to the proposed rule, published at 61 FR 44227. It should again be noted that the Service is engaged in an additional revision of 8 CFR part 312. That additional revision will be issued as a proposed rule, also with a request for public comments.

Regulatory Flexibility Act

The Commissioner of the Immigration and Naturalization Service, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule has been drafted in a way to minimize the economic impact that it has on small business while meeting its intended objectives.

Executive Order 12866

This rule is considered by the Department of Justice, Immigration and Naturalization Service, to be a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review. Under Executive Order 12866, section 6(a)(3)(B)–(D), this proposed rule has been submitted to the Office of Management and Budget for review. This rule is mandated by the 1994 Technical Corrections Act in order to afford certain disabled naturalization applicants an exemption from the educational requirements outlined in section 312 of the Immigration and Nationality Act.

Executive Order 12612

The regulation will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12988

This interim rule meets the applicable standards set forth in section 3(a) and 3(b)(2) of Executive Order 12988.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Paperwork Reduction Act

The information collection requirement contained in this rule have been approved by the Office of Management and Budget (OMB) under the provision of the Paperwork Reduction Act. The OMB control number for this collection is contained in 8 CFR 229.5, Display of control numbers.

List of Subjects

8 CFR Part 299

Immigration, reporting, and record keeping requirements.

8 CFR Part 312

Citizenship and naturalization, Education.

8 CFR Part 499

Citizenship and naturalization.

Accordingly, chapter I of title 8 of the Code of Federal Regulation is amended as follows:

PART 299—IMMIGRATION FORMS

1. The authority citation for part 299 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103; 8 CFR part 2.

2. Section 299.5 is amended by adding the entry for Form ''N–648'', to the listing of forms, in proper numerical sequence, to read as follows:

§ 299.5 Display of control numbers.

* * * * *

INS form No.	INS form title	Currently assigned OMB control No.
*	* * *	*
N–648	Medical Certification for Disability Exceptions.	1115–0205
*	* * *	*

PART 312—EDUCATIONAL REQUIREMENTS FOR NATURALIZATION

3. The authority citation for part 312 continues to read as follows:

Authority: 8 U.S.C. 1103, 1423, 1443, 1447, 1448.

4. In § 312.1 paragraph(b)(3) is revised to read as follows:

§ 312.1 Literacy requirements.

* * * * *

(b) * * *

(3) The requirements of paragraph(a) of this section shall not apply to any person who is unable, because of a medically determinable physical or mental impairment or combination of impairments which has lasted or is expected to last at least 12 months, to demonstrate an understanding of the English language as noted in paragraph (a) of this section. The loss of any cognitive abilities based on the direct effects of the illegal use of drugs will not be considered in determining whether a person is unable to demonstrate an understanding of the English language. For purposes of this paragraph, the term *medically determinable* means an impairment that results form anatomical, physiological, or psychological abnormalities which can be shown by medically acceptable clinical and laboratory diagnostic techniques to have resulted in functioning so impaired as to render an individual unable to demonstrate an understanding of the English language as required by this section, or that renders the individual unable to fulfill the requirements of English proficiency, even with reasonable modifications to the methods of determining English proficiency, even with reasonable modifications to the methods of determining English proficiency as outlined in paragraph(c) of this section.

* * * * *

5. Section 312.2 is amended by:

a. Revising the last sentence of paragraph(a);

b. Redesignating paragraph(b) as paragraph(c) and by

c. Adding a new paragraph(b), to read as follows:

§ 312.2 Knowledge of history and government of the United States.

(a) * * * A person who is exempt from the literacy requirement under § 312.1(b) (1) and (2) must still satisfy this requirement.

(b) *Exceptions.* (1) The requirements of paragraph(a) of this section shall not apply to any person who is unable to demonstrate a knowledge and understanding of the fundamentals of the history, and of the principles and form of government of the Untied stated because of a medically determinable physical or mental impairment, that already has or is expected to last at least 12 months. The loss of any cognitive skills based on the direct effects of the illegal use of drugs will not be considered in determining whether an individual may be exempted. For the purposes of this paragraph the term *medically determinable* means an impairment that results form anatomical, physiological, or psychological abnormalities which can be shown by medically acceptable clinical and laboratory diagnosis techniques to have resulted in functioning so impaired as to render an individual to be unable to demonstrate the knowledge required by this section or that renders the individuals unable to participate in the testing procedures for naturalization, even with reasonable modifications.

(2) *Medical certification.* All persons applying for naturalization and seeking an exception from the requirements of § 312.1(a) and paragraph(a) of this section based on the disability exceptions must submit Form N–648, Medical Certification for Disability Exceptions, to be completed by a medical doctor licensed to practice medicine in the United States or a clinical psychologist licensed to practice psychology in the Untied states (including the United States territories of Guam, Puerto Rico, and the Virgin Islands). Form N–648 must be submitted as an attachment to the applicant's Form N–400, Application for Neutralization. These medical professionals shall be experienced in diagnosing those with physical or mental medically determinable impairments and shall be able to attest to the origin, nature, and extent of the medical condition as it relates to the disability exceptions noted under § 312.1(b)(3) and paragraph(b)(1) of this section. In addition, the medical professionals making the disability determination must sign a statement on the Form N–648 that they have answered all the questions in a complete and truthful manner, that they (and the applicant) agree to the release of all medical records relating to the applicant that may be requested by the Service and that they attest that any knowingly false or misleading statements may subject the medical professional to the penalties for perjury pursuant to title 18, United Stated Code, Section 1546 and to civil penalties under section 274C of the Act. The Service also reserves the right to refer the applicant to another authorized medical source for a supplemental disability determination. This option shall be invoked when the Service has credible doubts about the veracity of a medical certification that has been presented by the applicant. An affidavit or attestation by the applicant, his or her relatives, or guardian on his or her medical condition is not a a sufficient medical attestation for purpose of satisfying this requirement.

* * * * *

(Approved by the Office of Management and Budget under control number 1115–0208)

PART 499—NATIONALITY FORMS

6. The authority citation for part 499 continues to read as follows:

Authority: 8 U.S.C. 1103; 8 CFR part 2.

7. Section 499.1 is amended by adding the entry for the Form ''N–648'', in proper numerical sequence, to the listing of forms, to read as follows:

§ 499.1 Prescribed forms.

* * * * *

Form No.	Edition date	Title and description
*	*	* * *
N–648	1/23/97	Medical Certification for Disability Exceptions.

Dated: March 2, 1997.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

Note: The attached Medical Certification for Disability Exceptions, Form N–648, will not appear in the Code of Federal Regulations.

BILLING CODE 4410–10–M

U.S. Department of Justice
Immigration and Naturalization Service

OMB #1115-0205
Medical Certification For Disability Exceptions Form

INSTRUCTIONS FOR FORM N-648 MEDICAL CERTIFICATION FOR DISABILITY EXCEPTIONS

Purpose of This Form.

The Immigration and Naturalization Service's (INS) regulations require that applicants seeking an exception from the English and U.S. history and government (civics) requirements for naturalization based on physical or developmental disability or mental impairment submit this certification form, completed by a licensed medical doctor or a licensed clinical psychologist, along with a completed application for naturalization (Form N-400). This certification form will be used by the INS to determine whether applicants for naturalization are entitled to an exception to the requirements.

In accordance with the Rehabilitation Act of 1973, INS makes reasonable modifications and/or accommodations to allow individuals with disabilities to participate in testing required for naturalization. Reasonable modifications and/or accommodations may include but are not limited to: Braille test forms, sign language interpreters, or off-site testing. Applicants should be advised that if reasonable modifications and/or accommodations will allow them to demonstrate knowledge of basic English and U.S. history and civics, this medical certification form is not required.

Part I of the form must be completed and signed by the applicant. The form also contains an acknowledged release by the applicant of his or her medical records to include both physical and mental health. Part II of the form must be completed and signed by the licensed medical doctor or licensed clinical psychologist performing the assessment of the applicant. The licensed medical doctor or licensed clinical psychologist is required to attest to the truthfulness of his or her certification under penalty of perjury and agree to release his or her medical records relating to the applicant upon request by the INS.

General Instructions.

Please answer all questions by typing or printing clearly in black ink. Indicate that an item is not applicable with "N/A". If an answer is "none," write "none". If you need extra space to answer any item, attach a sheet of paper with the name of the applicant, and the alien registration number (A#), and your complete name including first name, middle name and last name, with appropriate title. Also, indicate the number of the item to which the answer refers.

Additional medical reports may be submitted but they must be limited to not more than two pages, and have the name of the applicant, alien registration number (A#), and your signature on each page of the attachments. Additional medical records may be submitted but will not be accepted as a substitute for complete responses to questions asked on the certification form.

1. You are requested to provide an accurate assessment of the applicant's disability or impairment so the INS can determine whether to grant an exception to the English language and history and civics requirements for naturalization.

2. The INS requires that the licensed medical doctor or licensed clinical psychologist completing the form for the applicant be experienced in the area of the applicant's disability, and able to diagnose the applicant's disability and/or impairments. A certification must be made as to whether the applicant has the ability to learn English and civics sufficient to pass the INS' citizenship test. The tests require an ability to speak and write basic English and the ability to answer basic questions about the history and civics of the United States.

INSTRUCTIONS FOR FORM N-648 MEDICAL CERTIFICATION FOR DISABILITY EXCEPTIONS

3. All licensed medical doctors or licensed clinical psychologists completing this form must be licensed practitioners in the State where they practice. Medical attestations will be accepted only from the following: licensed medical doctors (MDs) and licensed clinical psychologists.

4. All forms must be signed, certified, and dated by the licensed medical doctor or licensed clinical psychologist. The certification must be filed within 6 months of its completion and signature.

Penalties.

Both the applicant and the licensed medical doctor or licensed clinical psychologist are required to complete and sign the form under penalty of perjury. All statements contained in response to questions in this certification are declared to be true and correct under penalty of perjury.

Title 18, United States Code, Section 1546, provides in part:

> Whoever knowingly makes under oath, or as permitted under penalty of perjury under Section 1746 of Title 28, United States Code, knowingly subscribes as true, any false statement with respect to a material fact in any application, affidavit, or other document required by the immigration laws or regulations prescribed thereunder, or knowingly presents any such application, affidavit, or other document containing any such false statement - shall be fined in accordance with this title or imprisoned not more than ten years or both.

If either the applicant or the licensed medical doctor or licensed clinical psychologist includes in this certification form any material information that the party knows to be false, the applicant and/or licensed medical doctor or licensed clinical psychologist may be liable for criminal prosecution under the laws of the United States.

The knowing placement of false information on the application may subject the applicant and the licensed medical doctor or psychologist to criminal penalties under Title 18 of the United States Code and to civil penalties under Section 274C of the Immigration and Nationality Act, 8 U.S.C. 1324c.

Privacy Act Notice: Authority for the collection of the information requested on this form is contained in 8 U.S.C. 1182(a)(15), 1183A, 1184(a), and 1258. The information will be used principally by the Service to whom it may be furnished to support an individual's application for naturalization under the Immigration and Nationality Act. Submission of the information is voluntary. It may also, as a matter of routine use, be disclosed to other federal, state, local and foreign law enforcement and regulatory agencies. Failure to provide the necessary information may result in the denial of the applicant's request for an exception to the English language and U.S. history and civics requirement in the applicant's naturalization application.

Reporting Burden: A person is not required to respond to a collection of information unless it displays a currently valid OMB control number. We try to create forms and instructions that are accurate, can be easily understood, and which impose the least possible burden on you to provide us with information. Often this is difficult because some immigration laws are very complex. Accordingly, the reporting burden for this collection of information is computed as follows: 1) learning about the form, 30 minutes; 2) completing the form, 60 minutes; and 3) assembling and filing the application, 30 minutes, for an estimated average of 120 minutes per response. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, you can write to the Immigration and Naturalization Service, 425 I Street, N.W., Room 5307, Washington, D.C. 20536. **Do not mail your completed application to this address.**

U.S. Department of Justice
Immigration and Naturalization Service

OMB #1115-0205
Medical Certification for Disability Exceptions

Part I. THIS SECTION TO BE COMPLETED BY THE APPLICANT *(Please print or type information)*

Last Name	First Name	Middle Name	Social Security Number

Address	Alien Number

City	State	Zip Code

Telephone Number	Date of Birth	Sex

I, _____ authorize _____
(Applicant's Name) *(Licensed medical doctor or licensed clinical psychologist)*

to release all relevant physical and mental health information related to my medical status to the INS for the purpose of applying for an exception from the English language and U.S. civics testing requirements for naturalization. I certify under penalty of perjury pursuant to Title 28 U.S.C. Section 1746, that the information on the form and any evidence submitted with it is all true and correct. I am aware that the knowing placement of false information on the Form N-648 and related documents may also subject me to civil penalties under 8 U.S.C. Section 1324c.

Signature _____ Date _____

Part II. THIS SECTION TO BE COMPLETED BY A LICENSED MEDICAL DOCTOR OR LICENSED CLINICAL PSYCHOLOGIST *(see instructions)*

The individual named above is applying for an exception from the English language and U. S. history and civics tests required of applicants for naturalization. The Immigration and Naturalization Service's regulations require that applicants for an exception based on disability submit this certification form, completed by a licensed medical doctor or licensed clinical psychologist, along with a completed application for naturalization (Form N-400).

Please answer the following questions as clearly and completely as possible, using common terminology and complete words and phrases.

1. Date of your most recent examination of the applicant. _____ 19 _____

2. Is this your first examination of the individual? Yes_____ No _____

   If yes, who is the regular attending physician? _____

3. Based on your examination, describe any findings of a physical or mental disability or impairment which, in your professional medical opinion, would prevent this applicant from demonstrating knowledge of basic English language and/or U.S. history and civics. Describe in detail. If applicant has a mental disability or impairment, please provide DSM diagnosis.

4. Did the applicant's disability or impairment result from the illegal use of drugs? If the applicant is developmentally disabled, did this condition first manifest itself before age 22? Please explain.

5. What is the duration of the applicant's disability or impairment? Is it temporary (less than 12 months) or permanent? Explain.

6. Please provide your medical speciality. If you are not specialized, provide your medical experience and other qualifications that permit you to make this assessment.

I certify under penalty of perjury under the laws of the United States of America, that the information on the form and any evidence submitted with it is all true and correct. I agree to release this applicant's relevant medical records upon request from the U.S. Immigration and Naturalization Service. I am aware that the knowing placement of false information on the Form N-648 and related documents may also subject me to civil penalties under 8 U.S.C. Section 1324c.

Signature _____ Date _____

Please Type or Print

Last Name	First Name	Middle Name
Business Address	**City, State, ZIP Code**	**Telephone**
License Number	**Licensing State**	

Form N-648 (01/23/97)

[FR Doc. 97–6686 Filed 3–18–97; 8:45 am]
BILLING CODE 4410–10–C