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The New Immigration Law: Good & Bad News to Citizenship Applicants

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There is good news as well as bad news in the processing of citizenship applications. The bad news is that there is a huge backlog and that it takes at least 10 months now in New York City, Los Angeles and Miami to be a U.S. citizen compared to just half this time a year ago. The delay is expected to be longer in the coming months.

The sluggish pace in the processing is due to one significant change in the law which requires the Federal Bureau of Investigation to check an applicant's criminal record before citizenship is accorded by the Immigration Service. What used to take only 19 days a year ago to check an applicant's fingerprints now takes 50 days, according to an F.B.I. official. The problem is exacerbated by the lack of trained fingerprint examiners and clerks and an automated system that is not yet fully operational to handle the processing of about 1.4 million fingerprint cards received by the F.B.I. from the Immigration Service thus far.

The good news, on the other hand is that there have been some changes in the law that facilitate compliance with some requirements in the naturalization process especially for the elderly and the disabled.

Also government initiatives have been undertaken to help poor immigrants to become citizens. This is true in California, Florida and New Jersey. New York City has also announced the creation of a city agency to recruit and assist legal immigrants who want to become citizens. In the Filipino community, FAHSI, a human service agency has conducted citizenship drives and held classes to prepare applicants for the English and civics test.

- Q.** What are the changes in the law that reduces the requirements for elderly naturalization?
- A.**
- (1) Applicants who are 80 years old and over are exempt from submitting fingerprints.
 - (2) Applicants who are at least 50 years old and have been lawful permanent residents for at least 20 years or who are at least 55 years old and have been lawful permanent residents for at least 15 years are exempt from the English language requirement. Furthermore, they have the option to take the civics exam in their native language through an interpreter.
 - (3) "Special consideration" for the civics exam is given to applicants who are at least 65 years old and have been lawful permanent residents for at least 20 years. They would be asked only 25 published questions.
 - (4) Elderly applicants who are ill or disabled can request the INS for special accommodation by taking their oath at senior centers or other places.

- Q.** For those who are not exempted from the English literacy requirement, are they required to be highly proficient in English?
- A.** No. Applicants satisfy the English literacy requirement if they “can read or write simple words and phrases” or demonstrate “an ability to read, write, and speak words in ordinary usage in the English language.”
- Q.** What about the civics requirement?
- A.** The regulations instruct INS officers to give “due consideration” to “the applicant’s education, background, age, length of residence in the United States” and other relevant factors when framing questions and weighing responses about civics. They are also directed to use the applicant’s native language if the situation so warrants.
- Q.** Are there applicants who are completely exempted from the English and civics testing requirements?
- A.** Yes, under a recent INS regulation, exception shall be granted 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” or who is unable for any of the same reasons “to demonstrate a knowledge and understanding of the fundamentals of the history, and of the principles and form of government of the United States.”
- Q.** What does the term medically determinable mean?
- A.** It means “an impairment that results from 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 . . . or that renders the individual unable to fulfill the requirements for English proficiency, even with reasonable modifications to the methods of determining English proficiency.. .”
- Q.** What must the applicant submit in order to get a disability waiver?
- A.** The applicant must submit to the INS Form N-648 or a Medical Certification for Disability Exceptions which is filled out by a licensed medical doctor or licensed clinical psychologist. This form must be attested by both the applicant and the medical professional that all information submitted are true and correct.
- Q.** What are the qualifications of these certifying professionals?
- A.** They must have a state license to practice in the United States and be trained in diagnosing persons with physical disabilities or mental impairments. Moreover, they must attest to the origin, nature, and extent of the medical condition as it relates to the exceptions for English and civics.
- Q.** Are the other naturalization requirements waivable for applicants with disabilities?
- A.** No. Applicants should comply with other citizenship requirements like having good moral character, five years of lawful permanent residency (3 years if married to a U.S. citizen) and taking the oath of allegiance. The INS must however, continue to afford reasonable adjustments in the testing procedures such as the use of sign language interpreters and wheelchair accessible test sites, among others.

- Q.** Can the oath be administered to an applicant with a disability?
- A.** Yes, as long as the INS officer is convinced that the applicant understands the nature of the oath, and the applicant personally and voluntarily agrees to becoming a U.S. citizen and giving up his country of nationality.