



Statement for the Record on Oversight of U.S. Citizenship and Immigration Services

**Submitted to the Committee on the Judiciary, Subcommittee on Immigration and Citizenship by
the National Partnership for New Americans**

July 28, 2020

The National Partnership for New Americans (NPNA), a national coalition of immigrant and refugee rights organizations, respectfully requests that the Committee on the Judiciary, Subcommittee on Immigration and Citizenship and Congress hold U.S. Citizenship and Immigration Services (USCIS) accountable by conditioning funding for USCIS on the reversal of the agency’s most inefficient and wasteful policies and practices. Congress simply funding or loaning to USCIS without strict conditions or guardrails will ultimately fail to address the policies and practices that have contributed to the current state of USCIS and will instead place the burden on low-income and working class immigrants who sustain large portions of the agency.

I. Who is the National Partnership for New Americans

NPNA is a national multiethnic, multiracial partnership of 41 immigrant and refugee rights organizations in 37 states. Our members provide large scale services—from assistance with Deferred Action for Childhood Arrivals (DACA) and citizenship applications to voter registration to health care enrollment—for their communities, and they combine service delivery with sophisticated organizing tactics to advance local and state policy. We believe America’s success is rooted in our ongoing commitment to welcoming and integrating newcomers into the fabric of our nation, and to upholding equality and opportunity as fundamental American values.

The overwhelming majority of NPNA member organizations offer legal services to low-income and working class communities. They work closely with families and individuals who apply for a range of immigration benefits—including citizenship, lawful permanent residency (LPR), DACA, asylum, employment authorization, U Visas, T visas, applications pursuant to the Violence Against Women Act, and Temporary Protected Status—allowing people of less means to obtain live-changing legal protections for which they are eligible, and which enhance their opportunities, strengthen family unity, and increase the prosperity of their communities.

Since NPNA was created in 2010, NPNA members with smaller legal services departments have built themselves up through naturalization and other applications, and now represent the NPNA Family Protection Network of 29 DOJ recognized organizations with over 150 attorneys and DOJ accredited representatives. As a result, NPNA member organizations are acutely aware of the development and trends within USCIS over the last few years.

II. Why Oversight of USCIS is Critically Needed by NPNA, NPNA Member Organizations, and the Community that they Represent

Since USCIS came under the control of the Trump administration, NPNA member organizations that offer legal services have observed how the processes to naturalize and obtain countless immigration benefits have become more and more complicated and dissuaded community members who are eligible for obtaining benefits from applying. Essentially, the situation where USCIS finds itself in, where it claims a lack of funds and the need for furloughing 70% of its workforce, is a politically manufactured crisis that is the result of its own anti-immigrant policies and practices.

For example, with citizenship applications, USCIS has proposed and implemented multiple policies and practices that unnecessarily burden and complicate almost every single stage of the naturalization process. The agency has proposed to increase the naturalization application fee from \$640 to \$1,170 and eliminate most fee waivers, including for citizenship.¹ This proposed rule has undergone review by the

White House Office of Management and Budget, which is finalized, and can be published in the Federal Register any day. If implemented, it would place a wealth test on citizenship and countless other immigration benefits and exclude low-income and working class immigrants from obtaining benefits for which they are eligible. The administration previously sought to eliminate fee waivers based on the receipt of a means-tested benefit, which would exclude immigrants of color, those with disabilities, those who are elderly, and who have low income, but a federal court placed a preliminary injunction on that proposed rule.ⁱⁱ Both of these proposals would have the impact of discouraging low-income immigrants from taking the initial step of applying for citizenship.

If someone is able to collect the money necessary for the current fee, or even the proposed increased fee, they still face additional, new burdens. In November 2018, USCIS proposed to lengthen the naturalization application by adding duplicative and unnecessary questions and prompts for documents, making the process of filing an application more burdensome for applicants, legal services providers representing that applicant, and the USCIS adjudicators themselves.ⁱⁱⁱ In December 2018, USCIS proposed to make it more difficult for immigrants with disabilities to apply, by making it more burdensome to request an exemption from English and civics testing requirements based on their physical or developmental disability or mental impairment.^{iv} In March 2019, USCIS made it more difficult for military service members and others overseas to apply by announcing it would close multiple international USCIS offices that would have adjudicated those applications.^v

Once someone has submitted their application, the additional challenges introduced by USCIS continue. Policy memoranda issued in June 2018 have increased the agency's issuance of Notices to Appear, Requests for Evidence, and Notices of Intent to Deny, by expanding the circumstances in which USCIS officials commence removal proceedings against applicants who are applying for benefits, request additional information, and deny applications for benefits, instead of requesting additional information.^{vi} This increased use of Requests for Evidence lengthens the process for USCIS to adjudicate the application and many times require applicants and their legal services providers to provide documents that were already provided or are not required in order for the adjudicator to determine eligibility. In December 2019, USCIS expanded the bars to the "good moral character" requirement for citizenship by including those who have had contact with the criminal justice system, including those who received post-sentence relief, such as a new trial or sentence modification, further limiting those who will proceed in the naturalization process.^{vii}

For those whose applications move forward and who receive an interview, that stage of the naturalization process has also been complicated by USCIS policy changes. In June 2019, the agency announced that it would require citizenship applicants to attend their interview at a USCIS office that is not the one where they applied, possibly requiring them to travel hundreds of miles and even travel to another state.^{viii} The interview itself has reportedly increased in time, with some USCIS offices doubling the length of an interview from 20-30 minutes to 45-60 minutes and other offices exceeding 90 minutes.^{ix} There are also reports of USCIS adjudicators making detailed questions that are not directly related to the applicant's eligibility for citizenship and adjudicators conducting the English and civics tests more strictly.^x The May 2019 announcement that USCIS will be revising its civics test has concerned many advocates that the agency will make it more difficult for applicants with limited English proficiency to naturalize.^{xi}

Those who make it through those stages now have additional burdens at the final stage: the naturalization oath ceremony. Last year, USCIS proposed to require applicants, whose citizenship applications have

been approved and who are awaiting their swearing-in ceremony, to produce unnecessary and burdensome documentation at that ceremony.^{xii} The agency's refusal to use its existing statutory and regulatory authority to hold remote oath ceremonies when it closed its offices during the coronavirus pandemic delayed hundreds of thousands of approved applicants who were awaiting the final stage of pledging allegiance to the United States.^{xiii} While USCIS has opened its offices and held modified and limited, in-person oath ceremonies, its current freezing of naturalization interviews threaten to prevent up to 315,000 applicants from naturalizing, effectively disenfranchising would-be citizens during the 2020 presidential election.^{xiv}

For those who are ultimately able to become a citizen, USCIS has escalated impediments to them remaining a citizen, even decades later in some cases. The agency has done this by expanding the resources that it commits towards denaturalizing citizens, including attorneys and immigration officers, and thus exponentially increasing the denaturalization cases that the agency is scrutinizing.^{xv}

This non-exhaustive list of policies and practices that limit access to citizenship alone show how USCIS has unnecessarily complicated the process of naturalizing and effectively dissuaded others from applying. As a result of these inefficient and wasteful actions from USCIS, there is, according to the agency's latest public data, as of March 31, 2020, 700,885 citizenship applications in its administrative backlog.^{xvi} This number has more than doubled, increasing by 57% compared to four years prior.^{xvii} The national average processing delay has also exponentially increased, from 5.6 months in Fiscal Year (FY) 2016 to 9.9 months in FY 2019.^{xviii}

NPNA filed a Freedom of Information Act (FOIA) with USCIS in August 2018, and after a lack of response, filed a lawsuit in federal court in September 2018 related to the citizenship backlog, political motivations behind it, causes for it, and whether racial and ethnic groups were disproportionately targeted for extreme vetting and impacted by the backlog.^{xix} Despite the original FOIA request being filed almost two years ago, USCIS has failed to respond to the overwhelming majority of our inquiries.

This very Subcommittee on Immigration and Citizenship held a hearing related to the application backlog last year. At that time, according to USCIS data, the backlog of citizenship applications was 647,576 applications.^{xx} The backlog has since increased to over 700,000 applications and the agency has yet to show demonstrable progress or a plan, with timelines and metrics for success, on how to address the backlog and processing delays.

Congress now has an opportunity to not only scrutinize and perform oversight over USCIS but, through the funding that it is considering granting to the agency in the upcoming coronavirus-related legislative package, course correct and introduce conditions or guardrails that require the agency to scale back on the inefficient policies and practices that it has implemented. We respectfully urge this Subcommittee and Congress to fully exercise its authority to do so.

III. Policy Recommendations to Fully Take Advantage of the Current Moment for Congressional Oversight and USCIS Accountability and Transparency

Congress now has an opportunity to not only help USCIS become financially solvent but also ensure that the agency does not double down on some of its most disastrous policies. This will allow the agency to move forward in an accountable manner that doesn't place the burden of its wastefulness on low-income and working class immigrants.

As NPNA expressed in its June 30, 2020 letter, on behalf of its 41 member organizations, to the Chairwomen and Ranking Members of Congressional Appropriations Subcommittees on Homeland Security, conditions or guardrails that should come with any Congressional emergency funding for USCIS include:

- Congress halting the proposed rule that, if implemented, would increase naturalization, lawful permanent residency, DACA, asylum, and other application fees; eliminate most fee waivers; and transfer USCIS funds to Immigration and Customs Enforcement (ICE);
- USCIS immediately issuing guidance to implement DACA, including initial and advanced parole applications, in accordance with the Supreme Court decision holding that the Trump administration's termination of DACA violated the Administrative Procedure Act;
- Congress prohibiting the transfer of USCIS funds to ICE;
- USCIS disinvesting from the administration's escalated denaturalization efforts;
- The agency producing a detailed plan to Congress, with a timeline and metrics for success, on how to reduce the backlog and processing delays that have plagued the agency;
- Congress requiring USCIS to conduct remote naturalization oath ceremonies for applicants who are awaiting that final step for becoming a United States citizen and agree to such an oath ceremony;
- the agency reducing the issuance of Requests for Evidence, Notices of Intent to Deny, and Notices to Appear, including by reversing the 2018 policy memoranda that caused or contributed to such increases; and
- USCIS eliminating the requirement that interviews for employment-based applications for permanent residency and family-based applications for reuniting with asylees or refugees must be in-person.^{xxi}

Conditioning strict requirements around Congressional emergency funding would not only reverse inefficient and wasteful policies and practices that limit access to citizenship and other immigration benefits for which applicants are eligible. Conditions would help to ensure that emergency funding for USCIS is not needed in the future by introducing minimal measures that bring the agency back into focus on its mission of adjudicating immigration benefits in an efficient and fair manner.

For these reasons, we respectfully request that the Subcommittee on Immigration and Citizenship and its members hold USCIS accountable by working towards a legislative solution that reverses the agency's most disastrous policies and prevents the agency from shifting responsibility to low-income and working class immigrants who largely sustain agency operations.

If you have any questions or comments, please contact Diego Iñiguez-López at diego@partnershipfornewamericans.org.

Sincerely,

National Partnership for New Americans

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- ⁱ U.S. Citizenship and Immigration Services Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements, 84 Fed. Reg. 62280, 62,316 (proposed November 14, 2019), <https://www.govinfo.gov/content/pkg/FR-2019-11-14/pdf/2019-24366.pdf>.
- ⁱⁱ Agency Information Collection Activities; Revision of a Currently Approved Collection: Request for Fee Waiver; Exemptions, 84 Fed. Reg. 26,137 (proposed June 5, 2019), <https://www.govinfo.gov/content/pkg/FR-2019-06-05/pdf/2019-11744.pdf>.
- ⁱⁱⁱ Agency Information Collection Activities; Revision of a Currently Approved Collection; Application for Naturalization, 83 Fed. Reg. 225 (proposed November 21, 2018), <https://www.govinfo.gov/content/pkg/FR-2018-11-21/pdf/2018-25345.pdf>.
- ^{iv} U.S. Citizenship and Immigration Services Policy Alert, Sufficiency of Medical Certification for Disability Exceptions (Form N-648), December 12, 2018, available at <https://www.uscis.gov/policymanual/Updates/20181212-N648MedicalCertification.pdf>.
- ^v Jordan, Miriam, "Trump Administration Plans to Close Key Immigration Operations Abroad," *New York Times*, March 12, 2019, <https://www.nytimes.com/2019/03/12/us/united-states-citizenship-immigration-uscis.html>.
- ^{vi} U.S. Citizenship and Immigration Services Policy Memorandum, Updated Guidance for the Referral of Cases and Issuance of Notices to Appear (NTAs) in Cases Involving Inadmissible and Deportable Aliens, June 28, 2018, available at <https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/2018/2018-06-28-PM-602-0050.1-Guidance-for-Referral-of-Cases-and-Issuance-of-NTA.pdf>; U.S. Citizenship and Immigration Services Policy Memorandum, Issuance of Certain RFEs and NOIDs; Revisions to Adjudicator's Field Manual (AFM) Chapter 10.5(a), Chapter 10.5(b), July 13, 2018, available at https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/AFM_10_Standards_for_RFEs_and_NOIDs_FINAL2.pdf.
- ^{vii} U.S. Citizenship and Immigration Services Policy Alert, Conditional Bar to Good Moral Character for Unlawful Acts, December 13, 2019, available at <https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20191213-GMCUnlawfulActs.pdf>.
- ^{viii} U.S. Citizenship and Immigration Services, "USCIS Aims to Decrease Processing Times for N-400 and I-485" (press statement, June 17, 2019), <https://www.uscis.gov/news/alerts/uscis-aims-decrease-processing-times-n-400-and-i-485>.
- ^{ix} Capps, Randy and Echeverría-Estrada, "A Rockier Road to U.S. Citizenship? Findings of a Survey on Changing Naturalization Procedures." *Migration Policy Institute*, 2, July 2020, <https://www.migrationpolicy.org/research/changing-uscis-naturalization-procedures>.
- ^x *Ibid.*
- ^{xi} U.S. Citizenship and Immigration Services Policy Memorandum, Revision of the Naturalization Civics Test, May 3, 2019, available at: https://www.uscis.gov/sites/default/files/document/memos/Revision_of_the_Naturalization_Civics_Test_D1_Signed_5-3-19.pdf.
- ^{xii} Agency Information Collection Activities; Revision of a Currently Approved Collection: Notice of Naturalization Oath Ceremony, 84 Fed. Reg. 1,188 (proposed February 1, 2019), <https://www.regulations.gov/document?D=USCIS-2006-0055-0011>.
- ^{xiii} *See* Immigration and Naturalization Act §§ 334(e), 337; 8 C.F.R. §337; 8 CFR § 1003.25(c); Nasr, Ethan and Peggy Gleason, "Remote Naturalization Oaths are Legally Permissible," *Immigrant Legal Resource Center*, July 2020, https://www.ilrc.org/sites/default/files/resources/remote_naturalization_oaths_are_legally_permisable.pdf; "Coronavirus Shutdowns Could Put 2020 Voting Out of Reach For Hundreds of Thousands of New Americans," *Boundless*, April 6, 2020, <https://www.boundless.com/blog/coronavirus-shutdowns-delay-naturalization/>.
- ^{xiv} "Over 300,000 Immigrants Still Won't Become U.S. Citizens In Time For the 2020 Election," *Boundless*, July 16, 2020, <https://www.boundless.com/blog/immigrants-vote-2020-election/>.
- ^{xv} Taxin, Amy, "US Launches Bid to Find Citizenship Cheaters", *Associated Press*, June 12, 2018, <https://apnews.com/1da389a535684a5f9d0da74081c242f3>; Wessler, Seth Freed, "Is Denaturalization the Next Front in the Trump Administration's War on Immigration?", *New York Times*, December 19, 2018, <https://www.nytimes.com/2018/12/19/magazine/naturalized-citizenship-immigration-trump.html>.

^{xvi} "Number of Form N-400, Application for Naturalization By Category of Naturalization, Case Status, and USCIS Field Location, January 1 - March 31, 2020," U.S. Citizenship and Immigration Services, accessed July 27, 2020, https://www.uscis.gov/sites/default/files/document/data/N400_performancedata_fy2020_qtr2.pdf.

^{xvii} See "Number of N-400 Applications for Naturalization by Category of Naturalization, Case Status, and USCIS Field Office Location January 1 - March 31, 2016," U.S. Citizenship and Immigration Services, accessed July 27, 2020, https://www.uscis.gov/sites/default/files/document/data/N400_performancedata_fy2016_qtr2.pdf.

^{xviii} "Historical National Average Processing Time (in Months) for All USCIS Offices for Select Forms By Fiscal Year," U.S. Citizenship and Immigration Services, accessed July 27, 2020, <https://egov.uscis.gov/processing-times/historic-pt>.

^{xix} Macias Jr., Martin, "Feds Sued Over Citizenship Processing Backlog," Courthouse News, September 17, 2018, <https://www.courthousenews.com/feds-sued-over-citizenship-processing-backlog/>.

^{xx} "Number of Form N-400, Application for Naturalization by Category of Naturalization, Case Status, and USCIS Field Office Location July 1 - September 30, 2019," U.S. Citizenship and Immigration Services, accessed July 27, 2020, https://www.uscis.gov/sites/default/files/document/data/N400_performancedata_fy2019_qtr4.pdf.

^{xxi} Letter from National Partnership for New Americans to Senator Shelley Moore Capito, Ranking Member of the U.S. Senate Appropriations Subcommittee on Homeland Security, et al., "Re: USCIS Request for Emergency Appropriations" (June 30, 2020), available at: https://drive.google.com/file/d/1UesiUaD67gkGQoiT6Pwtxaa_flJEoEB_/view?usp=sharing.