

**PRESENTED AT**

**40<sup>th</sup> Annual Conference on Immigration and Nationality Law**

October 27-28, 2016  
Austin, Texas

## **The New Naturalization Form: Pitfalls for the Unwary**

**Eugene J. Flynn**

Author Contact Information:

Eugene J. Flynn  
EUGENE J. FLYNN, P.C.  
Dallas, TX

[ejflynn@ejflynnlaw.com](mailto:ejflynn@ejflynnlaw.com)  
214-821-1661

Twenty pages! That is the length of the new N-400, Application For Naturalization, plus eighteen pages of instructions. That is one less page than the last edition of the form but three additional pages of instructions. The removal of the bar code at the bottom of each page is the main reason for the reduction in the number of pages. Editions previous to the recent expansion were ten pages plus six instruction pages. Go back to 1999 and they were four pages plus two instruction pages.

So is bigger better? Some commentators believe it is. The new separate instructions are more detailed as are the instructions on the form itself. It still has, however, has some tricky questions.

The form is designed to capture the information needed to determine if the person is eligible to file for Naturalization. If they are at least 18 years of age. If they have the required period residing in the U.S. as a permanent resident, if such is needed. Whether they have an impediment to establishing Good Moral Character for the required period of time. If they are willing to take the Oath of Allegiance. Knowledge of English and Civics are covered at the Naturalization examination.

Let's review the new form.

The prefatory instructions on page 1 have been expanded adding information regarding derivative and acquired citizenship. Previously applicants were only directed to the USCIS website for such when they got to part 5 (now part 6) which asks if either parent was ever a U.S. citizen. Often people complete the N-400 only to realize they did not have to do so.

The numbering of Part 1 has changed. The entire section is now numbered 1 and

the subsections are A to E rather than 1 to 5. The word “lawful” has been added in front of “permanent resident” in A, B and C. It is important when interviewing a prospective client that you discuss how the person obtained their permanent residence to make sure it was lawfully obtained, and advise them accordingly. Subsection C regarding having a U.S. citizen spouse employed abroad with whom the applicant resides has been expanded to allow the applicant to select the USCIS field office where the applicant would like to have their interview. With processing times varying the selection of a less busy office can be of benefit to your client.

Part 2 now has 13 questions. New ones have been inserted at number 6 for the USCIS Online Account Number (if any) and at number 7 for gender. One question was moved to a new Part 3. It is the one that relates to physical accommodations. It previously preceded the question relating to a waiver for physical or mental disabilities preventing the applicant from fulfilling the language and/or civics requirements. That waiver requires the filing of the N-648 certified by a medical doctor, doctor of osteopathy, or clinical psychologist licensed to practice in the United States, the physical accommodations request does not. The accommodation is for those are deaf or hard of hearing, use sign language to communicate, are blind or have low vision. This is to allow them to take the tests with assistance.

As with the last edition in the section for the name of the individual the “other name(s)” section (Part 2, number 3) clearly states that they want all names used since birth including nicknames and aliases. I don't know how many times I have argued with clients who say that their Facebook or email name should not be listed. Hopefully this will get them to stop arguing with me.

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](http://utcle.org/elibrary)

## Title search: The New Naturalization Form: Pitfalls for the Unwary

First appeared as part of the conference materials for the  
40<sup>th</sup> Annual Conference on Immigration and Nationality Law session  
"Naturalization"