



ASSISTING NATURALIZATION APPLICANTS WHO HAVE DISABILITIES BY USING FORM N-648

COMPLETING AND SUBMITTING FORM N-648

By Melissa Rodgers

I. Introduction¹

This is the second of two practice advisories addressing how to help naturalization applicants with disabilities, using Form N-648. This advisory addresses how to complete Form N-648 in partnership with a medical professional, as well as the procedure for submitting the form. A separate practice advisory describes the statutory and regulatory criteria for the disability exception.

Note: On April 26, 2019, the Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS), published a [notice](#) in the Federal Register inviting comments on a proposed revision to Form N-648. Comments were due June 25, 2019.² On September 6, 2019, USCIS published a [notice](#) in the Federal Register opening an additional 30-day comment period on the proposed revisions. Comments are due October 7, 2019. The current version of Form N-648 is dated 5/23/19. The proposed changes are drastic, bringing the form from 6 to 9 pages and adding burdensome questions about onset and diagnosis dates, as well as questions that go beyond statutory and regulatory criteria, such as questions about activities of daily living unrelated to naturalization requirements. This practice advisory addresses current policy and how to complete the current version of the N-648. The ILRC will monitor developments and update this practice advisory to reflect future changes.

The eligibility requirements for naturalization include demonstrating an understanding of the English language (the “English” requirement) and a knowledge and understanding of the fundamentals of the history, and of the principles and form of government, of the United States (the “civics” requirement).³ Some naturalization applicants are exempt from the English requirement on the basis of their age and how long they have had their green card.⁴ This practice advisory

¹ The ILRC thanks Asian Americans Advancing Justice-Los Angeles, Asian Counseling and Referral Service, Asian Law Alliance, Boat People SOS Center for Community Advancement, CASA, Catholic Charities-Diocese of Arlington-Hogar Immigrant Services, Interfaith Refugee & Immigration Services-Episcopal Diocese of Los Angeles, the International Institute of Minnesota, Jewish Family and Children's Services of San Francisco, the Michigan Immigrant Rights Project, the Northwest Immigrant Rights Project, and Project Citizenship for providing many examples of good practices in completing N-648 forms. The ILRC also thanks Legal Services NYC-Bronx for sharing the *De Dandrade* complaint, and our law clerk Sam Schlegel for his work on this advisory.

² Comments submitted to date, including a comprehensive comment by Catholic Legal Immigration Network, Inc. (CLINIC), are available at <https://www.regulations.gov/docketBrowser?rpp=50&so=DESC&sb=postedDate&po=0&dct=PS&D=USCIS-2008-0021> (last visited Sep. 2019).

³ 8 CFR §§ 312.1 and 312.2.

⁴ INA § 312. These exempt applicants are not required to speak English or read or write in English. Applicants exempt from demonstrating a basic understanding of English take the civics exam in their native language or a language of their choice. See USCIS Policy Manual, Volume 12: Citizenship & Naturalization, Part E: English and Civics Testing and Exceptions, Chapter 2: English and Civics Testing, available at www.uscis.gov/policymanual/HTML/PolicyManual-Volume12-PartE-Chapter2.html (last visited Sep. 2019). Cited hereinafter as 12 USCIS-PM E.2.

focuses on exceptions to the English and civics requirements on the basis of disability, and describes the process for obtaining an exception using Form N-648, Medical Certification for Disability Exceptions.

Advocates sometimes refer to the Disability Exception as a “Medical Exception,” “Disability Exemption,” or “Disability Waiver.” This practice advisory uses the term “**Disability Exception.**”

Filing a successful N-648 is no simple task. As one advocate noted, “Prepare the N-648 with the mindset that USCIS will look for any reason—no matter how insignificant—to deny it.” Moreover, policy guidance incorporated into the USCIS Policy Manual on February 12, 2019, adds new grounds for the officer to find “Credible Doubt, Discrepancies, Misrepresentation, and Fraud” in the N-648, greatly increasing the already high level of scrutiny.⁵

As of the date of this practice advisory, Legal Services NYC-Bronx Legal Services has a lawsuit pending before the 2nd Circuit alleging numerous violations by USCIS of rules and policy related to the adjudication of N-648 applications.⁶ The complaint describes USCIS officers routinely substituting their own judgment for the judgment of medical professionals, denying applications for arbitrary reasons, and failing to provide meaningful notice describing the defects of a denied N-648. The ILRC will monitor the outcome of the litigation and encourages advocates to do so as well. Advocates exploring litigation may want to contact the attorneys in the case for further information.

II. Process for Applying for the Disability Exception: Completing the N-648 Form

The application for the disability exception must be made using Form N-648, **Medical Certification for Disability Exceptions.**⁷ Advocates should use the latest version of Form N-648, available at <https://www.uscis.gov/n-648>. As of the date of this practice advisory, USCIS accepts the current version dated 05/23/2019. There is no filing fee for the N-648. A medical professional who has evaluated the applicant must complete the N-648. The applicant’s medical provider therefore plays an essential role in establishing the grounds for the N-648. Working closely with the provider to ensure they understand how to complete the form effectively is crucial to success.

USCIS prefers that medical professionals complete the fillable electronic Form N-648 located in the "FORMS" tab on the USCIS website at www.uscis.gov. The USCIS policy manual, Volume 12: Citizenship & Naturalization, Part E: English and Civics Testing and Exceptions, Chapter 3: Medical Disability Exception, and the Instructions for Form N-648, Medical Certification for Disability Exceptions, provide helpful guidance on completing the form. A hyperlink to the Policy Manual is available in footnote 5 of this practice advisory and a hyperlink to the form and the instructions can be found in the Resources section at the end of this practice advisory.

A. Which Medical Professionals Can Complete the N-648

The N-648 medical certification may be completed only by a medical doctor (including a psychiatrist), a clinical psychologist, or a doctor of osteopathy, who is authorized to practice in the United States including the U.S. territories of Guam, Puerto Rico, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands.⁸ Other practitioners, such

See Chapter 8 of the ILRC’s manual entitled *Naturalization and U.S. Citizenship, The Essential Legal Guide*, for more information about these exemptions.

⁵ See USCIS Policy Manual, Volume 12: Citizenship & Naturalization, Part E: English and Civics Testing and Exceptions, Chapter 3: Medical Disability Exception, available at www.uscis.gov/policymanual/HTML/PolicyManual-Volume12-PartE-Chapter3.html (last visited Sep. 2019). Cited hereinafter as 12 USCIS-PM E.3. See also “2.Factors that may give rise to credible doubts,” USCIS Office of Public Affairs, *USCIS Teleconference on N-648, Medical Certification for Disability Exceptions*, February 12, 2019, available at https://www.uscis.gov/sites/default/files/USCIS/files/USCIS_N648_Teleconference_2.12.2019.pdf (last visited Sep. 2019).

⁶ The lawsuit, *De Dandrade et al v. United States Department of Homeland Security et al*, was dismissed by the Southern District of New York on February 15, 2019 (case number 1:17-cv-09604). Plaintiffs have appealed the decision to the 2nd Circuit. As of the date of this practice advisory, a decision is still pending.

⁷ 8 CFR § 312.2(b)(2).

⁸ 8 CFR § 312.2(b)(2).

as nurse practitioners, social workers, or speech therapists, are not approved to complete the form. In practice medical office staff may help complete the N-648, but the medical professional signing the form is solely responsible for ensuring the accuracy of the form's content. There is no requirement that a specialist complete the N-648. The applicant's primary care physician may complete the form, so long as they have sufficient expertise to make the diagnosis.

Practice Tip: Advocates should work with the provider who is most likely to complete a thorough and successful N-648 for the applicant. The most helpful medical provider may be a specialist who can provide a clear explanation of the diagnostic tests, the diagnosis, the impairment, and the reason the impairment prevents the applicant from meeting the English and civics requirements. Or the most helpful medical provider may be a primary care provider who knows the applicant well, wants to advocate for the applicant, and will take the time to complete the form thoroughly. A specialist who has only met the applicant once may be unlikely to write as strong an N-648 as the applicant's primary care provider. For example, for an applicant with dementia, a primary care provider could complete the N-648 rather than requiring a time-consuming and costly neurological evaluation by a specialist. In some situations, a primary care provider can consult with a specialist and then complete the form. This is especially helpful if the applicant receives treatment from a medical professional who cannot complete the N-648.

Example: Nou Vang suffers from bipolar disorder. She is treated by a psychiatric nurse practitioner, who is not a medical professional approved to complete the N-648. The practice is all nurse practitioners and does not include a psychiatrist. Ms. Vang's advocate asks her primary care provider to complete the form. The primary care provider speaks with the psychiatric nurse practitioner to gather the psychiatric history and specific information about how Ms. Vang's condition prevents her from demonstrating a knowledge of English and civics. The primary care provider then completes the form, referencing both the specific information from the psychiatric nurse practitioner and their own records to describe how her bipolar disorder prevents Ms. Vang from learning English or civics.

The form asks for information about the nature of the doctor-patient relationship including whether the medical professional regularly treats the applicant for the conditions described. Under the new February 12, 2019, policy guidance, advocates must assume that officers will launch a line of inquiry if the regularly treating medical professional did not complete the form. Absent a solid explanation, the officer may deny the N-648.

Practice Tip: If the primary care provider is unable or unwilling to complete the N-648, the form must include a clear and compelling statement explaining why another provider completed the form. Advocates report success in a situation where the medical professional who completed the N-648 explained that the reason they were completing the form rather than the primary care provider was that the primary care provider would not complete the form as a matter of policy. The medical professional completing the N-648 must have examined the applicant sufficiently to be able to provide accurate information based on medical evidence, even if they are not the regular treating provider.

Example: Ramon Bautista has Down syndrome. His primary care provider refuses to complete the N-648 because she does not want any involvement with immigration authorities. Fortunately, Ramon also receives services from a Regional Center for persons with developmental disabilities in the State of California. The psychologist at the Regional Center evaluated Ramon and completed a thorough and successful N-648.

Practice Tip: Advocates may want to identify medical professionals with experience completing Form N-648 willing to accept patients referred to them, especially for clients who do not have a treating physician. Note, however, that some medical professionals may rely on a template where they fill in the blanks or cut and paste repeat information. This is risky and could lead to a denial based on credible doubt, even if the information is true.

Practice Tip: Social workers or caseworkers cannot complete the N-648 but can be instrumental in helping the medical professional do a thorough job. Over the years, social workers who work with immigrants may develop a fair amount of expertise in the process for completing the N-648. Similarly, in many community health centers, the nurse practitioners and physician assistants who provide primary care cannot complete the N-648. They can, however, work with a medical doctor in the same health center to complete and sign the form.⁹ Advocates can also benefit from working with an applicant's social worker. Similarly, family members may help bridge the relationship with the medical professional and lay the groundwork for the establishing the disability exception before the applicant begins the N-400. Finally, the applicant may also be able to play an active role in channeling questions and information to their medical provider.

B. What Information Must Be Included on Form N-648?

The N-648 is structured to address all the statutory and regulatory requirements.¹⁰ A properly completed form N-648 contains:

- Information about the medical professional, including their licensing and medical practice type.
- The clinical diagnosis that is the grounds for the disability exception, and its relevant medical code as accepted by the Department of Health and Human Services (HHS), which includes Diagnostic and Statistical Manual of Mental Disorders (DSM) and the International Classification of Diseases (ICD).
- A description of the disability or impairment.
- The first and most recent dates the medical professional examined the applicant regarding the condition.
- A description of the doctor-patient relationship indicating whether the medical professional completing the form regularly treats the applicant for the conditions listed on the Form N-648 and, if not, an explanation of why that provider, not the regularly treating medical professional, is completing the form.
- A statement that the medical condition has lasted, or is expected to last, at least 12 months.
- A statement indicating whether the medical condition is the result of the illegal use of drugs.
- An explanation of what caused the medical condition, if known.
- A description of the clinical methods used to diagnose the applicant's medical condition.
- The nexus between the impairment and the applicant's inability to successfully complete the English and/or civics requirements for naturalization.
- An indication whether an interpreter was used or a statement that the medical professional is fluent in the language spoken by the applicant.
- A verification of the applicant's identity.

Practice Tip: Recommendations from advocates are a reminder of how challenging it is to secure an N-648 approval.

Advocates suggest leaving nothing to chance, noting tips such as:

- Type responses, or at least print very clearly and neatly.
- Review all responses for accuracy and completeness.
- Make sure responses are internally consistent.
- Do not leave any boxes or spaces blank. Use "N/A" or "none" as needed.
- Proofread responses. Correct errors.
- Provide a full signature, not just initials over the medical office's stamp.

⁹ See Question 17 in the Q&A, USCIS Office of Public Affairs, *USCIS Teleconference on N-648, Medical Certification for Disability Exceptions*, February 12, 2019, available at https://www.uscis.gov/sites/default/files/USCIS/files/USCIS_N648_Teleconference_2.12.2019.pdf (last visited Sep. 2019).

¹⁰ See the companion practice advisory to this one for a review of the statutory and regulatory requirements.

C. When Is the Interpreter Certification Required?

The medical professional may examine the applicant in their native language.¹¹ However, if an interpreter translated communications between the applicant and the medical professional during the examination that formed the basis of the information on the N-648, then the interpreter must sign and complete the “Interpreter’s Certification” on the N-648 form. If the same interpreter will be at the N-400 interview, it is essential to avoid having the interpreter questioned as a witness about the N-648, or they will be disqualified from serving as an interpreter in the N-400 interview. The ILRC has heard some reports of officers prohibiting applicants from using the same interpreter in the N-400 interview as the one they used with their medical professional. This is wrong and advocates should intervene and ask for a supervisor if this happens.¹²

Practice Tip: If the applicant speaks several languages other than English, and the interpreter signing the N-648 used a different language than the language used at the naturalization interview, this may generate questions from the USCIS officer. Advocates can prepare applicants to explain the choice of languages if questions arise.

D. Should the Medical Professional Use Medical Terminology or Plain English?

Medical professionals will and should use accurate medical terminology to describe impairments. However, a successful N-648 will avoid all unnecessary jargon and pair the medical terminology with a plain English explanation that leaves no room for interpretation or misunderstanding. USCIS instructions for the N-648 specify that medical professionals should use “common terminology, without abbreviations, that a person without medical training can understand.”

Example: Ms. Hashemi suffers from memory loss and cognitive dysfunction caused by dementia. In response to question 8 on the N-648 asking “What caused this applicant’s medical disability and/or impairments listed in number 1, if known?” Ms. Hashemi’s physician wrote, “etiology unknown” because the underlying cause of her dementia is unknown. The USCIS officer interpreted this to mean the physician lacked familiarity with Ms. Hashemi’s condition and denied the N-648.¹³

Practice Tip: The USCIS officer reading the N-648 is not a medical professional. Ask the medical professional to avoid using medical jargon. One advocate suggests that the form should explain the nexus between the disability and the inability to speak, read, and write English, as one would to a “third grader” while another advocate suggests a “middle school” level for the language used. Both examples reinforce the importance of using simple English whenever possible.

E. How Much Detail Should the Medical Professional Provide?

The questions in Part 3 of the N-648 ask the medical provider to provide *detailed* answers. It is especially important for the medical professional to articulate clearly the causal relationship between the disability and the applicant’s inability to meet the English and civics requirements. USCIS officers are not expected or qualified to make the connection between a diagnosed medical condition and that condition’s effect on an applicant’s ability to learn English or civics. Detailed answers from the medical provider will reduce the risk that the USCIS officer will try substituting their opinion. The strongest N-648 responses provide sufficient detail that clearly answers each question, in simple, everyday language where appropriate.

¹¹ See 12 USCIS-PM E.3.

¹² Per USCIS, “The same interpreter can be used at the medical appointment and at the N-400 interview.” See “3. Role of interpreters in completing Form N-648 and during the naturalization interview” as well as Questions 14 and 15 in the Q&A for more information on when an interpreter may become a witness, USCIS Office of Public Affairs, *USCIS Teleconference on N-648, Medical Certification for Disability Exceptions*, February 12, 2019, available at https://www.uscis.gov/sites/default/files/USCIS/files/USCIS_N648_Teleconference_2.12.2019.pdf (last visited Sep. 2019).

¹³ The instructions to the N-648, dated 05/23/19, provide an illustrative example of a response that would be deemed sufficient for situations where the etiology of the impairment is unknown: “Severe intellectual disability is usually caused by an error in cell division occurring *in utero*. The cause of such error in cell divisions is currently unknown.”

Practice Tip: Medical professionals are frequently working under time pressures and may therefore write short and unhelpful answers. It is unrealistic to think that most providers will take the time to read the N-648 instructions. Advocates can attach a letter to the N-648 with some key information about the disability exception and tips on how to complete the form. Some advocates place post-it notes with tips in the most important sections of the blank N-648. Some attach sample successful N-648 forms (for a similar disability). (For examples, see the resources provided at the end of this practice advisory.) Even better, advocates should take the time to develop a relationship with the medical provider and help the provider understand what specific information is required. This time investment before the provider completes the form can help ensure they complete it properly the first time. It can also spare the applicant significant costs, as some medical professionals charge (sometimes hundreds of dollars) to complete forms. Advocates should articulate the requirements of Form N-648 to the medical professional and request revisions if they complete the form improperly. One advocate notes that “it may take several rounds of drafts with the medical professional before the form is ready.” Advocates stress the importance of engaging in this revision process before filing to avoid a denial.

Practice Tip: Medical professionals who are accustomed to completing Social Security or Workers Compensation disability determinations will not automatically know to establish the linkage between the disability and the applicant’s inability to fulfill the English and/or civics requirements. Advocates can explain the typical ways in which immigrants applying for naturalization learn English and civics (through ESL programs, private tutoring, English language television, audio tapes, online courses, and the like) so the provider can consider the skills necessary for success.

Medical professionals treating an applicant should make written notes in the medical record, including observations, tests, diagnosis, treatment plan, and treatment results. If these notes are over a significant period of time, this lends credibility to the N-648. If the applicant has a condition that may improve with treatment, such as depression, the applicant, in consultation with their medical provider, may decide to try starting treatment. This could either lead to improvement or strengthen the case for the N-648 if the condition does not respond to treatment. Depending on all the factors in the applicant’s case, it may make sense to briefly delay submitting the N-400 application, to allow enough time to start appropriate treatment. At that point, the medical professional will have stronger grounds to state whether or not the disability is expected to last at least 12 months and whether it will continue to prevent the applicant from meeting the English and civics requirements.

Practice Tip: Succeeding in having USCIS approve an N-648 is very challenging, even when advocates and applicants follow and meet all the requirements. Advocates who have been successful report the importance of investing sufficient time in working closely with the medical professional, including having the applicant visit the provider several times if necessary, to get a correct and comprehensive N-648. From the beginning, these advocates emphasize to applicants the importance of gathering and attaching supporting evidence and putting in the necessary effort. As noted above, it is better and easier to ask the medical professional to make revisions upfront rather than risk an N-648 denial. Taking a hands-on approach, with direct and clear communication about the requirements is essential.

Practice Tip: In the past, USCIS Headquarters encouraged USCIS District Offices to schedule meetings with local doctors, medical associations, and medical centers that help immigrants and to carry out informational trainings on how to complete the N-648 correctly. Advocates working with individuals with disabilities should encourage local medical associations and the local USCIS office to conduct such trainings. This is especially true given the fact that a poorly prepared N-648 creates a suspicion of fraud.

F. Who Must Sign the N-648 Form?

The medical professional must sign the N-648, as must the interpreter, if used.

Practice Tip: Confirm that the N-648 has all the necessary signatures and that all required parties have dated it properly. If possible, advocates recommend that the medical professional, interpreter (if any), and applicant sign and date the form on the same date. This reduces the risk of questions.

If the applicant cannot sign the N-648 form because of a disability, advocates may request an accommodation to the signature requirement (on both the N-400 and the N-648), such as signing with a mark. Chapter 9 of the ILRC’s manual entitled *Naturalization and U.S. Citizenship, The Essential Legal Guide*, discusses the issue of waivers to the signature requirement, as well as waivers of the oath requirement on the basis of a disability.

III. Process for Applying for the Disability Exception: Submitting the N-648 Form

A. Timing for Submitting the N-648

The new guidance published in the USCIS Policy Manual on February 12, 2019, states that Form N-648 must be filed concurrently with Form N-400 to be considered timely. The applicant bears the burden of explaining a late filing.

Practice Tip: Given that it may take several months to secure a solid N-648, advocates should advise applicants of the resulting delay in filing the N-400 application.

On a case-by-case basis, some advocates continue to report success submitting the N-648 after the N-400, including at the N-400 interview. Advocates may choose to flag on the N-400 that the applicant has a medical condition and provide an explanation that will support the subsequent filing of the N-648 without triggering a finding of inconsistency. If the N-648 is filed after the N-400, USCIS requires applicants to provide a credible explanation for the late filing along with supporting evidence for the explanation. The new USCIS guidelines state that a credible explanation includes a “material change in his or her medical condition” or another credible explanation and warns that late filing can give rise to “credible doubt” about the N-648.¹⁴

Practice Tip: Non-concurrent filings may result from applicants overestimating their ability to learn the required material. Some applicants only become aware of a previously undiagnosed medical issue when they experience difficulties preparing for the English and civics tests. Some applicants may have unwarranted but genuine confidence in their ability to meet the English and civics requirements. Advocates recommend preparing applicants to provide a forthright explanation and, as representatives, to remind officers that their client is not a doctor and can only speak to their subjective experience.

Practice Tip: Especially given the focus on “credible doubt” in the new guidance, advocates submitting new information on an existing N-648, or submitting multiple N-648 forms for an applicant, should ensure there are no discrepancies in the information provided that could give rise to a finding of lack of credibility.

¹⁴ See 12 USCIS-PM E.3.

Practice Tip: If the N-648 is submitted at the time of the interview, advocates should either request that the USCIS officer postpone the English and civics exam to allow time for the N-648 adjudication, or adjudicate the N-648 on the spot before proceeding with the interview. Under no circumstances should the applicant be asked to try passing the English and civics exam before the N-648 adjudication.

USCIS states in its policy manual that if Form N-648 was completed by the certifying medical professional more than six months prior to the filing of the naturalization application, that timing “may give rise to credible doubts” about the application.¹⁵ When possible, advocates should aim for a recently-certified N-648. Once submitted, the N-648 does not expire. It will remain valid even though current naturalization application processing times have increased to over 12 months at many Field Offices (see <https://egov.uscis.gov/processing-times/>).

Practice Tip: For conditions that are not expected to improve (such as Alzheimer’s), an N-648 completed and signed within six months of when it is submitted should be approved even if the underlying documentation and diagnosis are older. To avoid having USCIS improperly request new testing, the medical professional can explain on the N-648 why, for this impairment, the existing documentation is still valid.

B. USCIS N-648 Review Process

At the time of the first naturalization interview, the USCIS officer will review the N-648 form to determine whether the naturalization applicant is eligible for a medical exception to the English and/or civics requirements. Advocates have noted, some with frustration, that USCIS officers do not review the N-648 in advance.

Practice Tip: If it becomes clear that the officer did not read the entirety of the N-648 before beginning to question the applicant, an advocate can curtail irrelevant lines of questioning by asking the officer what information they are looking for and guiding them to where this information can be found on the N-648.

In addition to checking that the form is complete and that the medical professional dated and signed the form, USCIS will focus on the legal standard for approving the N-648, including both whether the applicant has a medically determinable impairment, and whether a causal connection exists between the impairment and the applicant’s inability to meet the English and civics requirements.¹⁶ The USCIS officer’s role is to determine whether the form contains sufficient information to establish that the applicant is eligible for the disability exception by a *preponderance of the evidence* (which means “more likely than not”).¹⁷ The officer will also be checking for discrepancies between the N-648 and other information about the applicant. Any discrepancies could affect the adjudication of the application. The 2019 policy guidance adds new factors giving rise to findings of “credible doubt, discrepancies, misrepresentation or fraud.”¹⁸ Advocates should familiarize themselves with these factors, which are discussed in greater detail below.

Practice Tip: Advocates should ensure the information on the N-648 is consistent with information in the applicant’s A-file, information on the N-400, and testimony the applicant provides during the interview.

¹⁵ This timing factor does not exist in the statute or regulations and is therefore vulnerable to a legal challenge. See 12 USCIS-PM Part E.3. For circumstances in which advocates want to submit a new or amended N-648 that was completed and signed by a medical professional more than six months before filing it, but after the first N-648 denial, and that is being submitted within the timeframe specified in the Request for Evidence (Form N-14), please see Chapter 9 of the ILRC’s manual entitled *Naturalization and U.S. Citizenship, The Essential Legal Guide*, for legal guidance.

¹⁶ The companion practice advisory to this one describes the statutory and regulatory criteria for the disability exception.

¹⁷ See 12 USCIS-PM E.3.

¹⁸ See 12 USCIS-PM E.3.

Officers may inquire about activities of daily living even though Form N-648 does not require any information about the impact of the impairment on the applicant's daily life activities.¹⁹ Although the focus of the inquiry must be limited to "discrepancies" between the N-648 and other information, the new policy guidance gives the officer broad discretion to initiate a line of questioning if "discrepancies exist regarding the applicant's daily life and activities between the naturalization application and information contained in the A-file, the Form N-648 itself, or from any other source of information."²⁰ The officer may look for inconsistencies between what the N-648 states and what the applicant is capable of doing in areas such as "employment capabilities or ability to attend educational programs."²¹ However, if there is no information on the N-400 or another source that suggests inconsistencies, officers should not go on a fishing expedition to try to unearth a discrepancy. Advocates should be ready to intervene if the questions turn into a broad probe.

Practice Tip: Practitioners report that some officers engage in aggressive questioning about an applicant's daily life in order to find inconsistencies between the N-648 and N-400. Any and all discrepancies, regardless of their relevance in determining the applicant's eligibility for a medical exception, can be grounds for the officer's credible doubt about validity of the N-648. Advocates should step in during irrelevant questioning and remind the officer that all questions should serve the purpose of determining their client's eligibility for the disability exception: specifically, to determine if the applicant has an impairment that prevents them from meeting the English and/or civics requirement. If an officer asks irrelevant questions, advocates should ask how the current line of questioning furthers this goal and request that the officer cease the line of questioning. Advocates recommend asking to speak to a supervisor if intrusive questioning continues.

Practice Tip: It is a best practice to also prepare the applicant for a potentially broad line of questioning about how their impairment affects daily life activities that may be related to learning (for example going to school) or may appear inconsistent with the N-648 (for example certain job requirements). Advocates should ensure the answers are consistent with the information provided on the N-648.

The USCIS officer adjudicating the N-400 and the N-648 should not draw their own conclusions about the validity of the medical professional's diagnosis or its nexus to the educational requirements. The USCIS Policy Manual provides clear information about actions the USCIS officer is not permitted to take, such as requiring that an applicant complete specific tests, questioning the applicant about medical care or activities when there is no conflicting information in the applicant's file that would justify this line of questioning, or asking to see medical records in order to question the medical professional's diagnosis.²²

Practice Tip: USCIS officers may use applicants' work history against them, assume that applicants with disabilities cannot work at all, and engage in improper questioning. If the issue is likely to arise at the interview, advocates can proactively address this risk by having the medical professional explain on the N-648 that although an applicant can do certain enumerated tasks, they cannot learn the required English and civics.

If the USCIS officer doubts the truthfulness of the information provided on the N-648, they may request additional information. Specifically, the officer may refer an applicant to another authorized medical source for a supplemental disability determination if the officer has "credible doubts as to the veracity of the medical certification."²³ In this instance,

¹⁹ See Note on p. 1 of this Practice Advisory. The proposed changes to Form N-648 would add a line of questioning about activities of daily life but the current version of the form does not require a medical professional to address issues beyond the questions on the form.

²⁰ See 12 USCIS-PM E.3.

²¹ See 12 USCIS-PM E.3

²² For a complete list of Guidelines for Officer's Review of Form N-648, please see 12 USCIS-PM E.3.

²³ 8 CFR § 312.2(b)(2).

the officer must receive approval from a supervisor before requesting a supplemental disability determination and explain the reasons for doubting the truthfulness of the N-648.²⁴

Practice Tip: Although the phrasing of the USCIS Policy Manual suggests the applicant will identify a medical professional for the supplemental disability determination from the state medical board list, the ILRC's position is that this list is provided to facilitate the process for applicants, not to limit their choice of medical professional, and that applicants may choose any medical professional authorized to complete the N-648. For example, a clinical psychologist is qualified to complete the N-648 but would not be on a state medical board list.

C. What Happens if USCIS Approves the N-648?

If the disability exception is granted, USCIS will proceed to ask questions regarding the N-400, without the English and civics exams. If the N-648 pertains to the applicant's inability to learn English, USCIS will use an interpreter. If the N-648 addresses *only* the inability to learn English, the USCIS officer will administer the civics exam using an interpreter. If the N-648 addresses *only* the inability to learn civics, USCIS will administer the English exam and conduct the interview in English.

D. What Happens if USCIS Denies the N-648?

At the first interview, if USCIS denies the N-648, advocates may contest the denial with a supervisor and ask for clarification, in order to address the specific deficiencies. Nonetheless, if the USCIS officer deems the N-648 insufficient at the time of the first interview, the officer must proceed with the full examination, in English, as if the applicant had not submitted a disability exception form.

Practice Tip: Applicants have the opportunity to try to meet the English and civics requirements if the USCIS officer rejects their N-648. In practice, some advocates report that USCIS officers regularly require naturalization applicants to take the English and civics exams after denying the N-648 rather than giving them the opportunity to either take the exams or decline to take the exams (and therefore fail the first interview). If the officer denies the N-648, advocates may stipulate that their client will not pass.

If the naturalization applicant takes the exams and meets the English and civics requirements during the examination, the USCIS officer should proceed with the rest of the naturalization exam to determine whether the applicant meets the remaining naturalization eligibility requirements. Passing the exams after submitting the N-648 does not constitute fraud or lack of good moral character. It is possible, however, that the USCIS officer will ask questions about why the applicant submitted Form N-648 and about the applicant's relationship to the medical professional.²⁵

If USCIS denies the N-648 at the first interview and the applicant fails the English and civics exams, the applicant will have the opportunity to meet the requirements again at a second interview or re-examination.²⁶ This provides advocates with a second opportunity to either submit new information to support an existing N-648, or to submit a new N-648. USCIS must issue a Request for Evidence or "RFE" (Form N-14) addressing the deficiencies with the N-648. The new policy guidance creates some ambiguity as to whether USCIS is required to issue an RFE by stating that "USCIS may choose to issue the applicant a request for evidence" (emphasis added) but it is the ILRC's position that advocates should

²⁴ The officer must also provide the applicant with state medical board contact information to identify another medical professional who can conduct a supplemental evaluation. See 12 USCIS-PM E.3.

²⁵ See 12 USCIS-PM E.3.

²⁶ 8 CFR § 312.5.

insist on an RFE that specifically describes the deficiencies.²⁷ Deficiencies could be related to completeness, lack of sufficient evidence to establish an impairment, or lack of nexus between the impairment and the English and civics exams.

Practice Tip: The De Dandrade complaint (see footnote 6) includes repeated examples of USCIS providing deficient Requests for Evidence (Form N-14), including forms on which the USCIS officer checked every box—suggesting improperly that the N-648 is deficient on all counts—or forms that provide such a vague description of the deficiency that the applicant and advocate cannot understand it enough to address it. Advocates should ensure Form N-14 provides clear information that allows them to address deficiencies. If the Request for Evidence is completed improperly, advocates should raise the issue immediately to a supervisor, the Section Chief, the Field Office Director, District Director, or the USCIS Ombudsman.

If the USCIS officer rejects the N-648 because they doubt the veracity of the information provided, the officer must comply with specific requirements for requesting a supplemental disability determination, described above.

Practice Tip: Some USCIS offices may require the applicant to mail in the amended N-648 before the appointment, while others may require the applicant to bring the N-648 to the interview. Advocates should verify local practices by asking the officer at the first interview or contacting the local district office.

At the second interview, the USCIS officer will look over the documents submitted in response to the Form N-14 issued during the initial interview. Similar to the first interview, the USCIS officer will either approve the N-648 and proceed without the English and civics exams, or deny the N-648 and continue with the exams and the interview in English. If the applicant either fails the English and civics tests during the second interview, or refuses to answer the test questions, then USCIS will deny the N-400 application. In the N-400 denial notice, the officer must explain the reasons for finding the Form N-648 insufficient.²⁸

E. New Grounds for Denial of a Request for a Disability Exception

The revised guidelines that went into effect on February 12, 2019, state that “an officer may find an N-648 insufficient if there is a finding of credible doubt, discrepancies, misrepresentation or fraud as to the applicant’s eligibility for the exception.”²⁹ The USCIS policy manual list 14 factors that give rise to credible doubt, for example:

- The medical professional’s responses do not contain a reasonable degree of detail.
- The applicant or the medical professional failed to provide a reasonable justification for the late filing of the N-648.
- The applicant provided multiple Forms N-648 with different diagnoses and information and from different doctors.
- The information on the N-648 is inconsistent with other information on the N-400 or provided during the interview, such as information about employment capabilities or ability to attend educational programs.
- And the catch-all, “Any other articulable grounds that are supported by the record.”³⁰

²⁷ USCIS statements support this view, affirming that, “Currently, if an officer determines the N-648 to be insufficient during the first interview, we will issue an RFE to the applicant that explains the deficiencies of the form.” See Question 13 in the Q&A, USCIS Office of Public Affairs, *USCIS Teleconference on N-648, Medical Certification for Disability Exceptions*, February 12, 2019, available at https://www.uscis.gov/sites/default/files/USCIS/files/USCIS_N648_Teleconference_2.12.2019.pdf (last visited Sep. 2019).

²⁸ See 12 USCIS-PM E.3.

²⁹ See 12 USCIS-PM E.3. See also USCIS Policy Alert: Sufficiency of Medical Certification for Disability Exceptions (Form N-648), December 12, 2018, available at <https://www.uscis.gov/sites/default/files/policymanual/updates/20181212-N648MedicalCertification.pdf> (last visited Sep. 2019).

³⁰ For the full list of factors, see 12 USCIS-PM E.3.

Practice Tip: Advocates note that since the February 12, 2019, policy change, officers have become more aggressive and detailed in their questioning of applicants. Advocates stress that it is more important than ever to ensure Form N-648 is completed with sufficient detail.

Practice Tip: The new factors give USCIS officers an extraordinary amount of discretion to deny N-648s based on subjective determinations of “credible doubt.” This broad discretion is another reason to stress the importance of having medical providers avoid jargon. Too much medical terminology will make for an unintelligible N-648 and could possibly open the door to extended, irrelevant questioning.

The new guidelines create a context in which simple mistakes can be interpreted as intentional misrepresentations. Advocates should be prepared to push back against suggestions of fraud and to argue forcefully for credibility.

IV. How to Appeal an N-648 Denial

The current appeal process is the same as the regular naturalization appeal process. There is no special appeal process for the N-648. If USCIS denies the N-400 due to the applicant’s failure to meet the English and civics requirements at a second interview, applicants may:

- Appeal the N-400 denial by submitting an appeal (Form N-336) with the appropriate fee (currently \$700) or fee waiver application within 30 days of the denial. Applicants may submit new evidence on the N-648, or a new N-648, before the hearing.
- Submit a new application for naturalization (N-400), along with an N-648, at any time, even the same day as the naturalization denial. Note, however, that a new application will be subject to current processing times (see <https://egov.uscis.gov/processing-times/>).

Chapter 13 of the ILRC’s manual entitled *Naturalization and U.S. Citizenship, The Essential Legal Guide*, explains the naturalization appeal process in detail.

V. Completing the N-648 at Naturalization Group Processing Workshops

Although most legal services providers do not complete N-648 forms in group processing workshops, grouping N-400s that have N-648s can be a successful practice. The Michigan Immigrant Right Center (MIRC) has established a relationship with a well-regarded Senior Center, where MIRC conducts small naturalization application workshops with groups of senior applicants, with the added benefit that the Center can provide interpreter services. Social workers associated with the Senior Center, who know the seniors and have forged relationships with medical providers in the community, work on obtaining the N-648s in advance. MIRC provides training and coaching to support the process. At the workshop, MIRC provides feedback on N-648s that require revisions. After the workshop, MIRC sends the N-400s with N-648s to USCIS in batches and flags them with a request for advance review and off-site processing. USCIS can review the N-648s before scheduling the off-site processing and pre-approve them or point out any questions that need to be resolved. This benefits USCIS because it avoids sending an officer across the state for off-site processing unnecessarily. For MIRC and the Senior Center, the process both ensures quality N-648s and builds credibility that will help future N-648 applicants.

Practice Tip: Having a solid working relationship with leadership from the local USCIS office is essential to success. Regular liaison meetings between non-profit organizations and the local USCIS office provide a forum in which to increase cooperation and communication between the USCIS and community agencies, share information, and address concerns. For more information about setting up liaison meetings with USCIS, please contact the ILRC.

Resources

USCIS Resources

- **USCIS Form N-648 and Instructions:** <https://www.uscis.gov/n-648>
- **USCIS Instructional Video:** <https://www.youtube.com/watch?v=KnwreOU4YbQ>.
- **USCIS Training:** Medical Certification for Disability Exceptions Form N-648 [Training for External Stakeholders](#)
- **USCIS Teleconference on N-648, Medical Certification for Disability Exceptions:** https://www.uscis.gov/sites/default/files/USCIS/files/USCIS_N648_Teleconference_2.12.2019.pdf.

Materials

- **Chapters 8 and 9 of ILRC's Manual, *Naturalization and U.S. Citizenship: The Essential Legal Guide***
- **New Americans Campaign Blog, *From New Americans*.** May 2015 blog post includes a five-minute video by the Michigan Immigrant Rights Center (MIRC) to help medical professionals who are evaluating naturalization applicants for the disability exception. The blog post also includes links to a USCIS presentation and instructional video. Read more at <https://newamericascampaign.org/disability-waivers-101/>. Follow the link to the [Citizenship and Disability Video for Medical Providers Completing the N-648](#).
- **New Americans Campaign Resource Portal [Materials](#)** providing tips on the N-648:
 - [Cover Letter to Medical Professionals: Guidance for Completing Form N-648, Medical Certification for Disability Exceptions \(Project Citizenship\)](#)
 - [N-648 Tips for Success](#) (Asian Americans Advancing Justice-LA)
 - [N-648 Instructions for Medical Professionals](#) (Asian Americans Advancing Justice-LA)
 - [Tips for Physicians Completing Form N-648](#) (MIRC)
- **University of Washington's Harbor Medical Center** has an ethnic medicine website (EthnoMed) that contains information for physicians who work with immigrants and refugees, including information about helping immigrants who are applying for naturalization with the N-648 at https://ethnomed.org/cross-cultural-health/immigration/copy_of_for-providers. (Note, however, that the specific materials on the site may not all be up to date; for example, examples of diagnoses may refer to the DSM-IV rather than the current DSM-5.)
- **New Americans Campaign Best Practices Toolkit** on [Serving a Diversity of Applicants](#)

Trainings

- **Using the N-648 to Help Individuals with Disabilities Naturalize** (recorded webinar): <https://www.ilrc.org/recordings>.
- **Pro Bono Training Institute**, online training module covering the N-648 (California CLE available): <http://pbtraining.org/all-courses/naturalization/>.



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About the Immigrant Legal Resource Center

The Immigrant Legal Resource Center (ILRC) works with immigrants, community organizations, legal professionals, law enforcement, and policy makers to build a democratic society that values diversity and the rights of all people. Through community education programs, legal training and technical assistance, and policy development and advocacy, the ILRC's mission is to protect and defend the fundamental rights of immigrant families and communities.