

§§ 336.3–336.8 [Reserved]

§ 336.9 Judicial review of denial determinations on applications for naturalization.

(a) *General.* The provisions in part 310 of this chapter shall provide the sole and exclusive procedures for requesting judicial review of final determinations on applications for naturalization made pursuant to section 336(a) of the Act and the provisions of this chapter by the Service on or after October 1, 1991.

(b) *Filing a petition.* Under these procedures an applicant shall file a petition for review in the United States District Court having jurisdiction over his or her place of residence, in accordance with chapter 7 of title 5, United States Code, within a period of not more than 120 days after the Service's final determination. The petition for review shall be brought against the Immigration and Naturalization Service, and service of the petition for review shall be made upon the Attorney General of the United States, and upon the official in charge of the Service office where the hearing was held pursuant to § 336.2.

(c) *Standard of review.* The review will be *de novo*, and the court will make its own findings of fact and conclusions of law. The court may also conduct, at the request of the petitioner, a hearing *de novo* on the application for naturalization.

(d) *Exhaustion of remedies.* A Service determination denying an application for naturalization under section 335(a) of the Act shall not be subject to judicial review until the applicant has exhausted those administrative remedies available to the applicant under section 336 of the Act. Every petition for judicial review shall state whether the validity of the final determination to deny an application for naturalization has been upheld in any prior administrative proceeding and, if so, the nature and date of such proceeding and the forum in which such proceeding took place.

PART 337—OATH OF ALLEGIANCE

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AUTHORITY: 8 U.S.C. 1103, 1443, 1448.

§ 337.1 Oath of allegiance.

(a) *Form of oath.* Except as otherwise provided in the Act and after receiving notice from the district director that such applicant is eligible for naturalization pursuant to § 335.3 of this chapter, an applicant for naturalization shall, before being admitted to citizenship, take in a public ceremony held within the United States the following oath of allegiance, to a copy of which the applicant shall affix his or her signature:

I hereby declare, on oath, that I absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, of whom or which I have heretofore been a subject or citizen; that I will support and defend the Constitution and laws of the United States of America against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will bear arms on behalf of the United States when required by the law; that I will perform noncombatant service in the Armed Forces of the United States when required by the law; that I will perform work of national importance under civilian direction when required by the law; and that I take this obligation freely, without any mental reservation or purpose of evasion; so help me God.

(b) *Alteration of form of oath; affirmation in lieu of oath.* In those cases in which a petitioner or applicant for naturalization is exempt from taking the oath prescribed in paragraph (a) of this section in its entirety, the inapplicable clauses shall be deleted and the oath shall be taken in such altered form. When a petitioner or applicant for naturalization, by reason of religious training and belief (or individual interpretation thereof), or for other reasons of good conscience, cannot take the

oath prescribed in paragraph (a) of this section with the words "on oath" and "so help me God" included, the words "and solemnly affirm" shall be substituted for the words "on oath," the words "so help me God" shall be deleted, and the oath shall be taken in such modified form. Any reference to 'oath of allegiance' in this chapter is understood to mean equally 'affirmation of allegiance' as described in this paragraph.

(c) *Obligations of oath.* A petitioner or applicant for naturalization shall, before being naturalized, establish that it is his or her intention, in good faith, to assume and discharge the obligations of the oath of allegiance, and that his or her attitude toward the Constitution and laws of the United States renders him or her capable of fulfilling the obligations of such oath.

(d) *Renunciation of title or order of nobility.* A petitioner or applicant for naturalization who has borne any hereditary title or has been of any of the orders of nobility in any foreign state shall, in addition to taking the oath of allegiance prescribed in paragraph (a) of this section, make under oath or affirmation in public an express renunciation of such title or order of nobility, in the following form:

(1) I further renounce the title of (give title or titles) which I have heretofore held; or

(2) I further renounce the order of nobility (give the order of nobility) to which I have heretofore belonged.

[22 FR 9824, Dec. 6, 1957, as amended at 24 FR 2584, Apr. 3, 1959; 32 FR 13756, Oct. 3, 1967; 56 FR 50499, Oct. 7, 1991]

§ 337.2 Oath administered by the Immigration and Naturalization Service or an Immigration Judge.

(a) *Public ceremony.* An applicant for naturalization who has elected to have his or her oath of allegiance administered by the Service or an Immigration Judge and is not subject to the exclusive oath administration authority of an eligible court pursuant to section 310(b) of the Act shall appear in person in a public ceremony, unless such appearance is specifically excused under the terms and conditions set forth in this part. Such ceremony shall be held at a time and place designated by the

Service or the Executive Office for Immigration Review within the United States and within the jurisdiction where the application for naturalization was filed, or into which the application for naturalization was transferred pursuant to § 335.9 of this chapter. Such ceremonies shall be conducted at regular intervals as frequently as necessary to ensure timely naturalization, but in all events at least once monthly where it is required to minimize unreasonable delays. Such ceremonies shall be presented in such a manner as to preserve the dignity and significance of the occasion. District directors shall ensure that ceremonies conducted by the Service in their districts, inclusive of those held by sub-office managers, are in keeping with the Model Plan for Naturalization Ceremonies. Organizations traditionally involved in activities surrounding the ceremony should be encouraged to participate in Service-administered ceremonies by local arrangement.

(b) *Authority to administer oath of allegiance.* The authority of the Attorney General to administer the oath of allegiance shall be delegated to Immigration Judges and to the following officers of the Service: The Commissioner; district directors; deputy district directors; officers-in-charge; assistant officers-in-charge; or persons acting in behalf of such officers due to their absence or because their positions are vacant. In exceptional cases where the district director or officer-in-charge determines that it is appropriate for employees of a different rank to conduct ceremonies, the district director or officer-in-charge may make a request through the Commissioner to the Assistant Commissioner, Adjudications, for permission to delegate such authority. The request shall furnish the reasons for seeking exemption from the requirements of this paragraph. The Commissioner may delegate such authority to such other officers of the Service or the Department of Justice as he or she may deem appropriate.

(c) *Execution of questionnaire.* Immediately prior to being administered the oath of allegiance, each applicant shall complete the questionnaire on Form N-445. Each completed Form N-445 shall be reviewed by an officer of the Service

who may question the applicant regarding the information thereon. If derogatory information is revealed, the applicant's name shall be removed from the list of eligible persons as provided in §335.5 of this chapter and he or she shall not be administered the oath.

[60 FR 37803, July 24, 1995]

§337.3 Expedited administration of oath of allegiance.

(a) An applicant may be granted an expedited oath administration ceremony by either the court or the Service upon demonstrating sufficient cause. In determining whether to grant an expedited oath administration ceremony, the court or the district director shall consider special circumstances of a compelling or humanitarian nature. Special circumstances may include but are not limited to:

(1) The serious illness of the applicant or a member of the applicant's family;

(2) Permanent disability of the applicant sufficiently incapacitating as to prevent the applicant's personal appearance at a scheduled ceremony;

(3) The developmental disability or advanced age of the applicant which would make appearance at a scheduled ceremony inappropriate; or

(4) Urgent or compelling circumstances relating to travel or employment determined by the court or the Service to be sufficiently meritorious to warrant special consideration.

(b) Courts exercising exclusive authority may either hold an expedited oath administration ceremony or refer the applicant to the Service in order for either the Immigration Judge or the Service to conduct an oath administration ceremony, if an expedited judicial oath administration ceremony is impractical. The court shall inform the district director in writing of its decision to grant the applicant an expedited oath administration ceremony and that the court has relinquished exclusive jurisdiction as to that applicant.

(c) All requests for expedited administration of the oath of allegiance shall be made in writing to either the court or the Service. Such requests shall contain sufficient information to substan-

tiate the claim of special circumstances to permit either the court or the Service to properly exercise the discretionary authority to grant the relief sought. The court or the Service may seek verification of the validity of the information provided in the request. If the applicant submits a written request to the Service, but is awaiting an oath administration ceremony by a court pursuant to §337.8, the Service promptly shall provide the court with a copy of the request without reaching a decision on whether to grant or deny the request.

[60 FR 37804, July 24, 1995]

§337.4 When requests for change of name granted.

When the court has granted the petitioner's change of name request, the petitioner shall subscribe his or her new name to the written oath of allegiance.

[56 FR 50500, Oct. 7, 1991]

§§ 337.5—337.6 [Reserved]

§337.7 Information and assignment of individuals under exclusive jurisdiction.

(a) No later than at the time of the examination on the application pursuant to §335.2 of this chapter, an employee of the Service shall advise the applicant of his or her right to elect the site for the administration of the oath of allegiance, subject to the exclusive jurisdiction provision of §310.3(d) of this chapter. In order to assist the applicant in making an informed decision, the Service shall advise the applicant of the upcoming Immigration Judge or Service conducted and judicial ceremonies at which the applicant may appear, if found eligible for naturalization.

(b) An applicant whose application has been approved by the Service who is subject to the exclusive jurisdiction of a court pursuant to §310.2(d) of this chapter, shall be advised of the next available court ceremony and provided with a written notice to appear at that ceremony. If the applicant is subject to the exclusive jurisdiction of more than one court exercising exclusive jurisdiction, the applicant will be informed of

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the upcoming ceremonies in each affected court. The applicant shall decide which court he or she wishes to administer the oath of allegiance.

[58 FR 49915, Sept. 24, 1993, as amended at 60 FR 37804, July 24, 1995]

§ 337.8 Oath administered by the courts.

(a) *Notification of election.* An applicant for naturalization not subject to the exclusive jurisdiction of § 310.2(d) of this chapter shall notify the Service at the time of the filing of, or no later than at the examination on, the application of his or her election to have the oath of allegiance administered in an appropriate court having jurisdiction over the applicant's place of residence.

(b) *Certification of eligibility—(1) Exclusive jurisdiction.* In those instances falling within the exclusive jurisdiction provision of section 310(b)(1)(B) of the Act, the Service shall notify the court of the applicant's eligibility for admission to United States citizenship by submitting to the clerk of court Form N-646 within ten (10) days of the approval of the application.

(2) *Non-exclusive jurisdiction.* In those instances in which the applicant has elected to have the oath administered in a court ceremony, the Service shall notify the clerk of court, in writing, using Form N-646, that the applicant has been determined by the Attorney General to be eligible for admission to United States citizenship upon taking the requisite oath of allegiance and renunciation in a public ceremony. If a scheduled hearing date is not available at the time of the notification, Form N-646 shall indicate that the applicant has not been scheduled for a ceremony and the applicant shall be informed in writing that the application has been approved but no ceremony date is yet available.

(c) *Preparation of lists.* (1) At or prior to the oath administration ceremony the representative attending the ceremony shall submit to the court on Form N-647, in duplicate, lists of persons to be administered the oath of allegiance and renunciation. After the ceremony, and after any required amendments and notations have been made therein, the clerk of court shall sign the lists.

(2) The originals of all court lists specified in this section shall be filed permanently in the court, and the duplicates returned by the clerk of court to the appropriate Service office for retention by such office. The same disposition shall be made of any list presented to, but not approved by, the court.

(d) *Personal representation of the government at oath administration ceremonies.* An oath administration ceremony shall be attended by a representative of the Service, who shall review each applicant's completed questionnaire Form N-445. If necessary, the Service representative shall question the applicant regarding the information thereon. If the questioning reveals derogatory information, the applicant's name shall be removed from the list of eligible persons as provided in § 335.5 of this chapter and the court shall not administer the oath to such applicant.

(e) *Written report in lieu of personal representation.* If it is impracticable for a Service representative to be present at a judicial oath administration ceremony, written notice of that fact shall be given by the Service to the court. The applicants to be administered the oath shall be listed on the appropriate forms prescribed in paragraph (d) of this section. The forms, memoranda, and certificates of naturalization shall be transmitted to the clerk of court, who shall submit the appropriate lists to the court.

(f) *Withdrawal from court.* An applicant for naturalization not subject to the exclusive jurisdiction of § 310.3(d) of this chapter, who has elected to have the oath administered in a court oath ceremony, may, for good cause shown, request that his or her name be removed from the list of persons eligible to be administered the oath at a court oath ceremony and request that the oath be administered in a ceremony conducted by an Immigration Judge or the Service. Such request shall be in writing to the Service office which granted the application and shall cite the reasons for the request. The district director or officer-in-charge shall consider the good cause shown and the best interests of the applicant in making a decision. If it is determined that

the applicant shall be permitted to withdraw his or her name from the court ceremony, the Service shall give written notice to the court of the applicant's withdrawal, and the applicant shall be scheduled for the next available oath ceremony, conducted by an Immigration Judge or the Service, as if he or she had never elected the court ceremony.

[58 FR 49915, Sept. 24, 1993, as amended at 60 FR 37804, July 24, 1995]

§ 337.9 Effective date of naturalization.

(a) An applicant for naturalization shall be deemed a citizen of the United States as of the date on which the applicant takes the prescribed oath of allegiance, administered either by the Service or an Immigration Judge in an administrative ceremony or in a ceremony conducted by an appropriate court under § 337.8 of this chapter.

(b) When the taking of the oath is waived for a child pursuant to part 322 of this chapter, the child shall be deemed a citizen of the United States as of the date upon which the waiver was granted by the Service. The appearance of the child and the child's parent(s) at an oath ceremony, if the oath is waived under this paragraph, is not required. Nothing in this paragraph is to be construed as preventing the appearance of the child and parent(s) at an oath ceremony.

[56 FR 50500, Oct. 7, 1991, as amended at 60 FR 37804, July 24, 1995]

§ 337.10 Failure to appear for oath administration ceremony.

An applicant who fails to appear without good cause for more than one oath administration ceremony for which he or she was duly notified shall be presumed to have abandoned his or her intent to be naturalized. Such presumption shall be regarded as the receipt of derogatory information, and the procedures contained in § 335.5 of this chapter shall be followed.

[58 FR 49916, Sept. 24, 1993]

PART 338—CERTIFICATE OF NATURALIZATION

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338.1 Execution and issuance of certificate.

338.2 Execution in case name is changed.

338.3 Delivery of certificates.

338.4 Signing of certificate.

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338.11 Execution and issuance of certificate of naturalization by clerk of court.

338.12 Endorsement by clerk of court in case name is changed.

338.13 Spoiled certificate.

AUTHORITY: 8 U.S.C. 1103, 1443.

§ 338.1 Execution and issuance of certificate.

(a) *Issuance.* When an applicant for naturalization has taken and subscribed to the oath of allegiance in accordance with §§ 337.1, 337.2 and 337.3 of this chapter, a Certificate of Naturalization, Form N-550, shall be issued by the Service at the conclusion of the oath administration ceremony. For each applicant appearing at a judicial oath administration ceremony pursuant to § 337.8, the Service shall prepare the Certificate of Naturalization and forward it to the clerk of court sufficiently in advance of the ceremony to ensure the timely delivery on the date the oath administration ceremony is conducted.

(b) *Execution of certificate.* The certificate shall be issued to the applicant in his or her true, full, and correct name as it exists at the time of the administration of the oath of allegiance. The certificate shall show, under "former nationality," the name of the applicant's last country of citizenship, as shown in the application and Service records, even though the applicant may be stateless at the time of admission to citizenship. Photographs shall be affixed to the certificate in the manner provided in part 333 of this chapter. The certificate shall be signed by the applicant. The Commissioner's signature shall be affixed to the certificate.

[58 FR 49916, Sept. 24, 1993]

§ 338.2 Execution in case name is changed.

Whenever the name of an applicant has been changed by order of a court as a part of a naturalization, the clerk of court, or his or her authorized deputy, shall forward a copy of the order changing the applicant's name with the notifications required by part 339 of