

the petition. In cases in which the district director does not consent to the withdrawal, the court shall determine the petition on its merits.

(b) At the final hearing upon a petition for naturalization which the petitioner has failed to prosecute, the officer in attendance shall inform the court whether the district director consents to dismissal of the petition for lack of prosecution. In cases in which the district director does not move that the petition be dismissed for lack of prosecution, the court shall determine the petition on its merits.

[22 FR 9819, Dec. 6, 1957, as amended at 56 FR 50496, Oct. 7, 1991]

PART 335—EXAMINATION ON APPLICATION FOR NATURALIZATION

Sec.

- 335.1 Investigation of applicant.
- 335.2 Examination of applicant.
- 335.3 Determination on application; continuance of examination.
- 335.4 Use of record of examination.
- 335.5 Receipt of derogatory information after grant.
- 335.6 Failure to appear for examination.
- 335.7 Failure to prosecute application after initial examination.
- 335.8 [Reserved]
- 335.9 Transfer of application.
- 335.10 Withdrawal of application.
- 335.11 Preliminary examinations on petitions for naturalization filed prior to October 1, 1991.
- 335.12 Recommendations on petitions for naturalization of the designated examiner and regional administrator; notice.
- 335.13 Notice of recommendation on petitions for naturalization of designated examiner.

AUTHORITY: 8 U.S.C. 1103, 1443, 1447.

§ 335.1 Investigation of applicant.

Subsequent to the filing of an application for naturalization, the Service shall conduct an investigation of the applicant. The investigation shall consist, at a minimum, of a review of all pertinent records, police department checks, and a neighborhood investigation in the vicinities where the applicant has resided and has been employed, or engaged in business, for at least the five years immediately preceding the filing of the application. The district director may waive the

neighborhood investigation of the applicant provided for in this paragraph.

[56 FR 50497, Oct. 7, 1991]

§ 335.2 Examination of applicant.

(a) *General.* Subsequent to the filing of an application for naturalization, each applicant shall appear in person before a Service officer designated to conduct examinations pursuant to § 332.1 of this chapter. The examination shall be uniform throughout the United States and shall encompass all factors relating to the applicant's eligibility for naturalization. The applicant may request the presence of an attorney or representative who has filed an appearance in accordance with part 292 of this chapter.

(b) *Completion of criminal background checks before examination.* The Service will notify applicants for naturalization to appear before a Service officer for initial examination on the naturalization application only after the Service has received a definitive response from the Federal Bureau of Investigation that a full criminal background check of an applicant has been completed. A definitive response that a full criminal background check on an applicant has been completed includes:

(1) Confirmation from the Federal Bureau of Investigation that an applicant does not have an administrative or a criminal record;

(2) Confirmation from the Federal Bureau of Investigation that an applicant has an administrative or a criminal record; or

(3) Confirmation from the Federal Bureau of Investigation that two properly prepared fingerprint cards (Form FD-258) have been determined unclassifiable for the purpose of conducting a criminal background check and have been rejected.

(c) *Procedure.* Prior to the beginning of the examination, the Service officer shall make known to the applicant the official capacity in which the officer is conducting the examination. The applicant shall be questioned, under oath or affirmation, in a setting apart from the public. Whenever necessary, the examining officer shall correct written answers in the application for naturalization to conform to the oral statements made under oath or affirmation. The