

at the hearing upon such application and be heard in favor of or in opposition thereto. When the court orders the petition amended, the clerk of court shall transmit a copy of the order to the district director for inclusion in the Service file.

[22 FR 9819, Dec. 6, 1957, as amended at 32 FR 9635, July 4, 1967; 45 FR 10313, Feb. 15, 1980; 56 FR 50496, Oct. 7, 1991]

**§ 334.17 Transfer of petition for naturalization.**

(a) *Application for transfer.* An application to transfer a petition for naturalization, filed prior to October 1, 1991, shall be made on Form N-455, in quadruplicate, to the district director exercising administrative jurisdiction over the place where the court in which the petition is filed is located.

(b) *Action by district director.* If the district director consents to the transfer, he shall so indicate on each copy of Form N-455, which shall be filed with the clerk of court in which the petition is pending. If the district director does not consent to the transfer he shall so indicate on each copy of Form N-455 which shall be filed with the clerk of court, with a memorandum of the district director setting forth the reasons for the denial. The applicant shall be notified by the district director of the filing of Form N-455 with the clerk of court, and whether consent has been given by the district director.

(c) *Action by court in which petition is filed.* The court in which the petition is filed shall enter an order on the original copy of Form N-455, approving or disapproving the application. If the application is approved, the original copy of Form N-455 shall be filed with the naturalization record in the office of the clerk of court, the duplicate and triplicate copies, duly attested and certified, transmitted to the court to which the petition is to be transferred, and the quadruplicate copy, also attested and certified, transmitted to the district director. If the application is disapproved, the original Form N-455 shall be filed with the naturalization record in the office of the clerk of court and the remaining copies transmitted to the district director, who shall notify the applicant of the disapproval.

(d) *Action by court to which petition is transferred.* The court to which the petition is to be transferred shall enter an order on the duplicate copy of Form N-455, approving or disapproving the transfer. The duplicate copy shall be filed with the clerk of the court to which the petition is to be transferred, and the triplicate copy, duly attested and certified, transmitted to the clerk of the court in which the petition is filed. If the application is disapproved, the clerk of court receiving the triplicate copy shall notify the district director, who shall notify the applicant of the disapproval.

(e) *Transfer of petition and record.* If the court to which the petition is to be transferred approves the transfer, the clerk of court in which the petition is filed shall file the triplicate copy of Form N-455 with the naturalization record and forward a certified copy of the petition, and the originals of all documents filed relating thereto, to the court to which the petition is being transferred, and notify the district director having administrative jurisdiction over the place in which the petition is filed, of the action taken. Upon receipt of the certified copy and record, the clerk of court to which the petition is transferred shall index it, number it consecutively in the order in which it is received, prefixed by the letters TR, and in a series separate from petitions originally filed in the court. The petition shall be made a part of the record of the naturalization court. No fee shall be charged by the clerk of the court to which the petition is transferred for the filing of the transferred petition or the issuance of a certificate of naturalization.

[22 FR 9820, Dec. 6, 1957; 22 FR 9520, Nov. 28, 1957, as amended at 23 FR 5820, Aug. 1, 1958; 56 FR 50496, Oct. 7, 1991]

**§ 334.18 Withdrawal of petition and failure to prosecute.**

(a) A petitioner who desires to withdraw his petition for naturalization, filed prior to October 1, 1991, shall make request for withdrawal on Form N-404, in duplicate. The original shall be filed with the clerk of court and the duplicate with the office of the Service exercising administrative jurisdiction over the district in which the court is

located. At the final hearing upon the petition, the officer in attendance shall inform the court whether the district director consents to the withdrawal of 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 em-

ployed, 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