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Description of document: US Citizenship and Immigration Services (CIS) records regarding 2020 naturalization civics test, 2020-2021

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Source of document: FOIA request  
US Citizenship and Immigration Services  
National Records Center (NRC)  
FOIA/PA Office  
P.O. Box 648010  
Lee's Summit, MO 64064-8010  
[Request records online with USCIS](#)

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**U.S. Citizenship  
and Immigration  
Services**

**Control Number: COW2022000166**

November 10, 2025

This is in response to your Freedom of Information Act/Privacy Act (FOIA/PA) request received in this office on January 3, 2022, requesting a copy of records supporting or relating to the USCIS determination that the 2020 civics test (the test implemented on December 1, 2020) may inadvertently create potential barriers to the naturalization process.

We have considered the foreseeable harm standard when reviewing the record set and have applied the FOIA exemptions as required by the statute and the Attorney General's guidance. We have completed the review of all documents and have identified 27 pages that are responsive to your request. Enclosed are 23 pages released in their entirety and 4 pages released in part. We have reviewed and have determined to release all information except those portions that are exempt pursuant to 5 U.S.C. § 552 (b)(5) and (b)(6) of the FOIA.

The following exemptions are applicable:

Exemption (b)(6) permits the government to withhold all information about individuals in personnel, medical and similar files where the disclosure of such information would constitute a clearly unwarranted invasion of personal privacy. The types of documents and/or information that we have withheld may consist of birth certificates, naturalization certificates, drivers' licenses, social security numbers, home addresses, dates of birth, or various other documents and/or information belonging to a third party that are considered personal.

Exemption (b)(5) provides protection for inter-agency or intra-agency memorandums or letters, which would not be available by law to a party other than an agency in litigation with the agency. The types of documents and/or information that we have withheld under this exemption may consist of documents containing pre-decisional information, documents or other memoranda prepared in contemplation of litigation, or confidential communications between attorney and client.

There may be additional documents that contain discretionary releases of exempt information. If made, these releases are specifically identified in the responsive record. These discretionary releases do not waive our ability to invoke applicable FOIA exemptions for similar or related information in the future.

The enclosed record consists of the best reproducible copies available. Certain pages contain marks that appear to be blacked-out information. The black marks were made prior to our receipt of the file and are not information we have withheld under the provisions of the FOIA or PA.

You have the right to file an administrative appeal within 90 days of the date of this letter. By filing an appeal, you preserve your rights under FOIA and give the agency a chance to review and reconsider your request and the agency's decision. You may file an administrative FOIA appeal by mail to USCIS FOIA/PA Appeals Office, 150 Space Center Loop, Suite 500, Lee's Summit, MO 64064-2139. Both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

If you would like to discuss our response before filing an appeal to attempt to resolve your dispute without going through the appeals process, you may contact our USCIS FOIA Public Liaison at U.S. Citizenship and Immigration Services, National Records Center, FOIA/PA Office, P.O. Box 648010, Lee's Summit, MO 64064-8010, or by email at FOIAPAQuestions@uscis.dhs.gov.

A USCIS FOIA Public Liaison is an agency official to whom FOIA requesters can raise concerns about the service the requester has received from the agency's FOIA Office. USCIS FOIA Public Liaisons are responsible for assisting in reducing delays, increasing transparency, and understanding of the status of requests, and assisting in the resolution of disputes.

If you are unable to resolve your FOIA dispute through our USCIS FOIA Public Liaison, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001; email ogis@nara.gov; telephone 202-741-5770; toll free 877-684-6448; or facsimile 202-741-5769.

The National Records Center does not process petitions, applications, or any other type of benefit under the Immigration and Nationality Act. If you have questions or wish to submit documentation relating to a matter pending with USCIS, please visit the Contact Us page at [www.uscis.gov](http://www.uscis.gov) or call the USCIS Contact Center at 800-375-5283 (TTY 800-767-1833).

#### How to submit Questions or Changes

Questions concerning this FOIA/PA request may be mailed to U.S. Citizenship and Immigration Services, National Records Center, FOIA/PA Office, P.O. Box 648010, Lee's Summit, MO 64064-8010 or emailed to FOIAPAQuestions@uscis.dhs.gov. All FOIA/PA related requests, including address changes must be submitted in writing, and signed by the requester. Please include the control number listed above on all correspondence. For more information regarding the USCIS FOIA Program, please visit the USCIS website at [www.uscis.gov/FOIA](http://www.uscis.gov/FOIA).

Sincerely,



Jarrod T Panter  
Acting Chief FOIA Officer  
Freedom of Information Act & Privacy Act Unit

Enclosure(s)



## U.S. Citizenship and Immigration Services

February 22, 2021

PA-2021-02

# Policy Alert

SUBJECT: Revising Guidance on Naturalization Civics Educational Requirement

## Purpose

U.S. Citizenship and Immigration Services (USCIS) is updating policy guidance in the USCIS Policy Manual regarding the educational requirements for naturalization to demonstrate a knowledge and understanding of the fundamentals of the history, and of the principles and form of government, of the United States (civics) under section 312 of the Immigration and Nationality Act (INA).

## Background

In general, applicants for naturalization must demonstrate a basic understanding of the English language and a knowledge and understanding of civics.<sup>1</sup> Applicants have two opportunities to pass the related English and civics tests.<sup>2</sup> On December 1, 2020, USCIS implemented a revised naturalization civics test (2020 civics test) as part of a decennial test review and update process. In addition to making changes to the test content, the 2020 civics test updated the number of questions for applicants to study (from 100 possible questions in the prior 2008 civics test to 128 possible questions in the 2020 civics test) and updated the number of questions applicants must answer correctly to pass from six out of 10 to 12 out of 20 questions.

USCIS received approximately 2,500 comments from the public regarding the 2020 civics test and the policy. Multiple commenters noted that there was little advance notice before implementation of the 2020 civics test, which raised concerns about limited time for study and preparation of training materials and resources. Due to the comments and in keeping with the Executive Order on Restoring Faith in Our Legal Immigration Systems and Strengthening Integration and Inclusion Efforts for New Americans,<sup>3</sup> USCIS will revert to the 2008 test.

There will be a brief period during which USCIS may offer both versions of the test to accommodate certain naturalization applicants who filed on or after December 1, 2020 and before

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<sup>1</sup> See INA 312(a). An applicant may be eligible for an exception to the English requirements based on age and time as a lawful permanent resident. See INA 312(b)(2). An applicant who has a qualifying physical or developmental disability or mental impairment may be eligible for a medical exception to the educational requirements. See INA 312(b)(1).

<sup>2</sup> This includes the initial examination and re-examination (if needed). See 8 CFR 312.5(a) and 8 CFR 335.3(b). Applicants may also have another opportunity to pass the failed portion of the tests if they request a rehearing under INA 336(a) of a denied naturalization application.

<sup>3</sup> See Executive Order 14012, signed February 2, 2021.

March 1, 2021 and are scheduled for an interview before April 19, 2021. This is because such applicants may have already been studying for the 2020 civics test. USCIS will provide notices to such applicants affected by the policy update.

This update, contained in Volume 12 of the Policy Manual, becomes effective March 1, 2021. The guidance contained in the Policy Manual is controlling and supersedes any prior guidance on the topic.

### **Policy Highlights**

- Provides that USCIS will administer the 2008 civics test to applicants who filed for naturalization before December 1, 2020, or who will file on or after March 1, 2021.
- Provides that USCIS will give applicants the choice to either take the 2008 civics test or the 2020 civics test in cases where applicants filed their naturalization application on or after December 1, 2020 and before March 1, 2021, and where the initial examination (interview) is scheduled to occur before April 19, 2021.
- Provides that USCIS will administer the 2008 civics test to all applicants whose initial examination (interview) is scheduled to occur on or after April 19, 2021 (regardless of filing date).
- Provides that USCIS will only ask civics test questions until the applicant passes or fails either the 2008 civics test or the 2020 civics test.

### **Citation**

Volume 12: Citizenship and Naturalization, Part E, English and Civics Testing and Exceptions, Chapter 2, English and Civics Testing [12 USCIS-PM E.2].

**From:** [Delene Perley](#)  
**To:** [USCIS Policy Manual](#)  
**Cc:** [Martha Burchenal](#)  
**Subject:** Civics educational requirement for purposes of naturalization  
**Date:** Monday, November 30, 2020 5:02:07 PM

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Hello,

I am a teacher of the test for citizenship. I have read the new test of 128 questions. I would like to comment on three of those questions.

The following two questions have the same flaw -- they should say "people of their state or district" not just citizens. To back up my assertion see Amendment 14 -- (1) which at the end notes that the laws pertain to all people not just citizens. Since Congress makes laws and all laws pertain to all people, then surely the members of Congress represent all the people in their jurisdiction. Likewise Amendment 14 -- (2) when it speaks of apportionment, it refers to all the people.

31. Who does a U.S. senator represent?

- Citizens of their state

33. Who does a member of the House of Representatives represent?

- Citizens in their (congressional) district
- Citizens in their district

PLEASE ALSO note these three questions refer to "people" and not just "citizens." Consistency is important.

35. Some states have more representatives than other states. Why?

- (Because of) the state's population
- (Because) they have more people
- (Because) some states have more people

6. What does the Bill of Rights protect?

- (The basic) rights of Americans
- (The basic) rights of people living in the United States

13. What is the rule of law?

- Everyone must follow the law.
- Leaders must obey the law.
- Government must obey the law.
- No one is above the law.

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Question number 67 talks about the Oath of Allegiance.

The Pledge of Allegiance says: "I pledge allegiance to the United States of America and to the Republic for which it stands, one nation under God indivisible with liberty and justice for all."

The pledge does NOT mention "loyalty to other countries" or the lack thereof, it does not mention that one must agree to "serve in the military" or to "serve the nation." In fact, I might ask if it requires one to "defend the Constitution" since we have free speech and can work to amend it.

67. Name two promises that new citizens make in the Oath of Allegiance.

- Give up loyalty to other countries
- Defend the (U.S.) Constitution
- Obey the laws of the United States
- Serve in the military (if needed)
- Serve (help, do important work for) the nation (if needed)
- Be loyal to the United States

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Respectfully,

Delene Perley



(b)(6)



Submitted via email to: [USCISPolicyManual@uscis.dhs.gov](mailto:USCISPolicyManual@uscis.dhs.gov)

December 1, 2020

U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Office of the Director  
20 Massachusetts Avenue, N.W.  
Washington, D.C. 20529

RE: Policy Guidance Revisions: Civics Educational Requirement for Purposes of Naturalization

Dear Sir or Madam:

The Catholic Legal Immigration Network, Inc.<sup>1</sup> (CLINIC) respectfully submits the following comments related to recently announced changes to the civics test for naturalization and corresponding changes to the USCIS Policy Manual at Volume 12, Part E, Chapter 2, English and Civics Testing. These comments are based on the analysis of CLINIC's staff, who have extensive experience representing clients, insights from our affiliates and partners who regularly provide services to applicants for naturalization, and outside subject matter experts we consulted. Based on this expertise, CLINIC strongly opposes the new educational requirements and respectfully requests that USCIS rescind the new test and associated policy manual changes in their entirety.

Embracing the Gospel value of welcoming the stranger, CLINIC promotes the dignity and protects the rights of immigrants in partnership with a dedicated network of immigration legal services programs. This network includes approximately 380 programs operating in 48 states and the District of Columbia. CLINIC's network employs approximately 2,000 attorneys and accredited representatives that serve over 400,000 immigrants each year.

CLINIC's staff conduct trainings and provide technical support on the immigration-related legal problems faced by low-income immigrants. In 2019, CLINIC staff trained over 12,700 people online and in-person. Our affiliates regularly assist clients with applications for naturalization and many agencies within our network are actively engaged in preparing naturalization applicants for the civics and English tests required for naturalization. Thus, CLINIC and its network have a vested interest in any changes made to the naturalization process or the content of the tests.

As a Catholic organization, we are called to welcome the stranger and to serve our neighbors who seek safety and family unity in the United States. The Bible commands us: "You shall treat the

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<sup>1</sup> Laura Burdick, Field Support Coordinator, and Karen Sullivan, Advocacy Attorney, primarily authored these comments with contributions from Jill Marie Bussey, Advocacy Director.



[stranger] who resides with you no differently than the natives born among you; have the same love for him as for yourself; for you too were once [strangers] in the land of Egypt.”<sup>2</sup> The new naturalization civics test content and procedures change the test in a way that would impede applicants from reaching citizenship status, and the rights and duties that accompany it. Therefore, we offer the following comments on USCIS’s proposed changes to its policy and procedures.

## I. Background

USCIS announced on November 13, 2020, that it had revised the civics test for naturalization and the USCIS policy manual accompanying these changes.<sup>3</sup> Knowledge of civics and American history has been required for naturalization since 1952, however, the exam was oral, and there was no standard test content, protocols, or scoring system until the test was standardized by USCIS in 2008.<sup>4</sup> Some of the changes between the 2008 version and the 2020 version include:

- The 2008 version required officers to ask examinees 10 questions, and examinees needed to answer 6 correctly to pass. The 2020 version maintains the 60 percent pass rate, but officers ask examinees 20 questions, and examinees must answer 12 correctly to pass.
- The 2008 version required examinees to study a list of 100 civics questions. The 2020 version includes 128 questions.
- Only 40 questions were maintained unchanged from the previous version to the new version; the rest were reworded or introduced as new questions.
- The complexity of the vocabulary required to learn and understand the test questions has significantly increased.
- The answers to some questions have been changed based on political influence, rather than accuracy.

Applicants who apply for naturalization on or after December 1, 2020, will take the updated version of the test. Those who apply before December 1, 2020, will take the current version of the test.

## II. The Rules Surrounding the Civics Test Have the Force and Effect of Law, and Therefore Should Go Through Notice and Comment under the APA

The rules surrounding the civics test for naturalization that establish the number of questions to study, the number of questions an examiner will ask, and the number of questions an applicant must answer correctly to pass the test have the force and effect of law on applicants. Therefore, under the Administrative Procedure Act (APA), these rules should be considered legislative rules, not interpretive rules, and should have been subject to regulatory notice and comment upon their initial establishment, and again now, as they are being revised.

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<sup>2</sup> Leviticus 19:33-34.

<sup>3</sup> U.S. Immigration and Citizenship Services, Civics Educational Requirement for Purposes of Naturalization, Policy Alert PA-2020-20 (Nov. 13, 2020), <https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20201113-CivicsTest.pdf>.

<sup>4</sup> Sarai Martinez-Suazo, Timeline of US Naturalization Law/Civics Exam, University of Virginia (2015), [https://med.virginia.edu/family-medicine/wp-content/uploads/sites/285/2017/02/Sarai-Martinez-Suazo-US-Naturalization\\_Web.pdf](https://med.virginia.edu/family-medicine/wp-content/uploads/sites/285/2017/02/Sarai-Martinez-Suazo-US-Naturalization_Web.pdf).

According to the APA, the notice-and-comment requirement does not apply to “interpretive rules, general statements of policy, or rules of agency organization, procedure, or practice.”<sup>5</sup> However, in order to be considered an interpretive rule, the rule must not be binding on the public or “have the force and effect of law.”<sup>6</sup> Decisions that affect whether portions of the public will be able to successfully pass the civics test and become naturalized United States citizens are binding on the public and have the force and effect of law on those individuals whose cases will be denied based on this policy change.

The policy changes increase the number of questions that the public must study by 30 percent, increase the complexity and vocabulary level of the questions, and require examinees to sit for a test that is twice as long as it was previously. These are significant increases in difficulty and will cause more applicants to fail the civics test. When a portion of the public will lose access to U.S. citizenship as a result of agency action, that action is certainly binding on the public and has the force and effect of law. Therefore, these policies are subject to notice-and-comment rulemaking under the APA. CLINIC recommends that USCIS withdraw the policy and if it wants to re-issue the policy, it must do so as a proposed rulemaking under the APA.

### III. The new testing requirements will greatly increase the burden on applicants, USCIS, and service providers.

The changes described above will cost additional time, resources, and effort not only for applicants, but for USCIS and legal services providers as well. We detail those additional burdens below.

**Applicants.** Applicants will need to study 128 questions instead of 100, so there is more content to learn, and many of the questions are more difficult. Applicants will need more time to prepare for the test. More applicants will be unable to prepare on their own, and will need to take a citizenship class, if they can find one that is available in their community. More applicants will fail the test at their first interview and will need to return for a second interview to try again, requiring more time off work and greater struggle on their part.

**USCIS.** USCIS will require more time to administer the new test since there are 20 questions instead of 10 and adjudicators must ask all 20 questions instead of stopping when the applicant receives a passing score. The time needed to administer the new test will be at least doubled, if not more. This means fewer naturalization interviews can be conducted in the same amount of time, and will further increase the existing, severe backlogs. More applicants will fail the test at the first interview, requiring USCIS to schedule more second interviews, again exacerbating the backlogs.

In addition, the USCIS Office of Citizenship will need to spend an enormous amount of time re-tooling most of the test preparation materials on its website,<sup>7</sup> such as: Learn About the United

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<sup>5</sup> Administrative Procedures Act, 5 U.S.C. 553(b)(A)

<sup>6</sup> *Perez v. Mortgage Bankers Ass’n*, 575 U.S. 92 (2015), citing *Chrysler v. Brown*, 441 U.S. 281, 302-303 (1979)

<sup>7</sup> USCIS offers 51 test preparation documents for students on its website: [https://www.uscis.gov/citizenship/find-study-materials-and-resources/study-for-the-test?doc\\_type=All&query=&items\\_per\\_page=10&page=0](https://www.uscis.gov/citizenship/find-study-materials-and-resources/study-for-the-test?doc_type=All&query=&items_per_page=10&page=0)

States: Quick Civics Lessons;<sup>8</sup> an MP3 audio version of the study questions (English and Spanish); a video with scenes from a mock citizenship interview; and numerous resources for educators<sup>9</sup> that are based on the previous test. USCIS will also need to produce six new translations of the study questions, which are currently available on its website in Arabic, Spanish, Tagalog, Vietnamese, Chinese, and Korean.

**Service Providers.** Community-based organizations that help applicants prepare for the test will need to re-tool their classes and their materials, at great cost. Students will need more time to prepare for a longer, more difficult test, so classes will need to be extended, with more expenses for teachers' salaries. More students will need to take additional classes or repeat sessions, beyond the normal timeframe of 6-10 weeks. More students will need one-on-one assistance from a tutor. Curricula and lesson plans that have worked well for the last decade will need to be revised, with a great deal of new material incorporated.

Support organizations such as CLINIC will be burdened by the need for major revisions to our test preparation materials, such as our 100+ page study guide<sup>10</sup> and our collection of translations<sup>11</sup> of the civics questions in 19 languages. We will also need to revise all of our naturalization-related training materials for affiliates to reflect the new testing requirements, while conducting new trainings and outreach for our network to prepare them for the new test.

#### IV. The new test will drive up the denial rate, with far-reaching consequences for our nation.

The new test is clearly designed to be harder than the previous test and could prevent tens of thousands of people from naturalizing each year by causing their applications to be denied.<sup>12</sup> Instead of studying 100 questions, applicants must study 128, so the content has been expanded significantly. In addition, the number of questions on the test has been doubled, from 10 to 20. Many of the questions have been re-phrased to be more difficult. For example, the previous test asks applicants to name three of the original 13 states, while the new test asks for five. Also, some of the answers now require abstract wording that will be difficult for students with limited English proficiency to understand. An adult education expert who reviewed the new test found that USCIS seems to be “asserting that citizenship applicants are now expected to study and perform at a secondary level of education” which is significantly higher than the previous test and would leave behind those immigrants who have not had a secondary education.<sup>13</sup>

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<sup>8</sup> U.S. Citizenship and Immigration Services, Learn About the United States: Quick Civics Lessons for the Naturalization Test (Feb. 2019), [https://www.uscis.gov/sites/default/files/document/flash-cards/M-638\\_red.pdf](https://www.uscis.gov/sites/default/files/document/flash-cards/M-638_red.pdf).

<sup>9</sup> U.S. Citizenship and Immigration Services, Resources for Educational Programs (Last Updated Nov. 13, 2002), <https://www.uscis.gov/citizenship/resources-for-educational-programs>.

<sup>10</sup> Catholic Legal Immigration Network, Inc., The Citizenship Test (Jan. 21, 2020), <https://www.uscis.gov/citizenship/resources-for-educational-programs>.

<sup>11</sup> Catholic Legal Immigration Network, Inc., Translation of Civics Questions and Answers for the Naturalization Test (Jan. 1, 2019) <https://cliniclegal.org/resources/citizenship-and-naturalization/citizenship-test-preparation/translation-civics-questions>.

<sup>12</sup> The current, cumulative pass rate for the citizenship test is 91 percent. In Fiscal Year 2019, USCIS received 830,560 naturalization applications. If the pass rate had decreased by just 5 percent, from 91 percent to 86 percent in FY 2019, it would have caused over 40,000 people to be denied.

<sup>13</sup> Posting of Lynne Weintroub to the Naturalization Working Group listserv (Nov. 17, 2020) (on file with author).

The full impact of a higher denial rate can be illustrated by an analysis of current pass rates compared to the number of naturalization applicants. The current, cumulative pass rate for the citizenship test, as reported by USCIS, is 91 percent. In FY 2019, USCIS received 830,560 naturalization applications. If the pass rate had decreased by just 5 percent, from 91 percent to 86 percent in FY 2019, it would have caused over 40,000 people to be denied. Over 10 years, this would multiply to more than 400,000 people denied. This impact will be borne by the most vulnerable applicants: those who are elderly, disabled, low income, limited English proficient, and who have less formal education. These applicants will find themselves locked out of their dreams of citizenship and could become a permanent underclass in our society, unable to fully integrate and participate in our democracy. CLINIC believes that citizenship, with all of its rights and responsibilities, must be available to all people, not only the elite, well-educated and able-bodied, in a free and democratic society.

In 2005, the Director of the Office of Citizenship, the USCIS office leading the test revisions, assured stakeholders that the new test would not be more difficult than the current one. Indeed, USCIS kept its promise and was able to verify this with a records study of pass rates before and after the new test was implemented. The final records study that USCIS released in July 2011 showed an overall pass rate of 96 percent.<sup>14</sup> CLINIC calls on USCIS to make the same pledge for the new test. The citizenship test should not reinforce the world's educational inequities, particularly for those who were denied a basic education in their native country.

A higher denial rate and more daunting test will discourage many potential citizens from applying for naturalization and suppress application rates for years to come. Instead of welcoming new citizens and recognizing that our entire nation benefits when more immigrants naturalize, the United States would erect another barrier for those seeking citizenship, at great harm to our nation.

V. The methodology used by USCIS to revise the test was fundamentally flawed from the beginning.

CLINIC has many serious concerns about the process and methodology used by USCIS in creating the new test. Most importantly, there was no transparency. USCIS shared very little information with the public on the revision process or the rationale for the changes. An incomplete history of the process based on information CLINIC has been able to gather raises many more questions than it answers, while exposing serious doubts about the legitimacy of the new test.

We understand that the process began in secret in December 2018, when USCIS formed an internal naturalization test revision working group with members from across the agency to review the civics questions and consider changes to the English-speaking portion of the test. USCIS has not disclosed the names of those invited to participate in the group or their qualifications to make recommendations on the content and design of the citizenship test.

On May 3, 2019, USCIS issued an internal memorandum to the USCIS Associate Directors and Program Office Chiefs announcing a revision of the civics test and a decennial revision schedule. The rationale provided in the memorandum was “to ensure that USCIS will continue to responsibly

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<sup>14</sup> The records study found that the overall pass rate for the new test released in 2008 was higher than the pass rate on the old test: 96 percent vs. 94 percent.



exercise the discretion Congress afforded it by administering the citizenship test in accordance with best practices.”<sup>15</sup> USCIS also cited a need for standardized tests to be revised regularly in order to counter “fraud or nefarious actions” but provided no evidence of this problem with the citizenship test. Like the working group, USCIS kept the memorandum a secret.

Finally, seven months after the process had begun, USCIS publicly announced the plans to revise the citizenship test on July 19, 2019. At this time, USCIS disclosed the working group and the memorandum from USCIS leadership. The announcement gave a planned implementation date of December 2020 or early 2021. On the same day, USCIS posted a solicitation for a contractor to perform Technical Advisory Group (TAG) duties for the revised citizenship test, with a closing date of August 5, 2019. The announcement on the test revisions prompted a July 24, 2019 letter from members of Congress to USCIS expressing concerns about the burdens posed by a new test and requesting information on the process and rationale. USCIS responded to the letter on August 7, 2019. The response mentioned that the “first pilot test” was planned for fall 2019 in coordination with community-based organizations.

We understand that in August of 2019, USCIS’ Office of Citizenship sent a letter of invitation to potential participants for the first pilot that was planned for October 2019. Some organizations agreed to participate in the pilot, but later dropped out when they realized the extent of the burdens involved to teach a great deal of new content to their students, who were already trying to prepare for the current citizenship test.

According to our research, USCIS selected TESOL to run the TAG in September 2019. TESOL selected TAG members through an application process calling for subject matter experts. The members and activities of the TAG were not disclosed to the public “due to the confidential nature of the test development.”

We understand that the TAG had its first meeting with USCIS in Washington, D.C. on October 9-11, 2019. On October 11, the pilot abruptly collapsed without any explanation. The organizations that were participating in the pilot were simply told to stop immediately. Subsequent USCIS announcements on the new test have not mentioned that first pilot at all, even though USCIS initially planned to conduct two pilots.

A second pilot that USCIS planned for spring 2020 had to be pushed back due to the pandemic. Finally, on May 28, 2020, USCIS sent an e-mail invitation to its grant recipients for participation in a pilot to be conducted remotely in July-August. The pilot was scheduled to begin on July 6, 2020. Organizations were given a revised list of test questions to teach their students over a very brief period, and students self-selected to participate in the pilot. As with the first pilot, there were organizations that dropped out due to the burdensome demands of the pilot on their students and staff, and participants were not permitted to share any information about the pilot. The pilot ran briefly, for approximately five weeks, and ended on August 13, 2020. It appears that only about

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<sup>15</sup> Memorandum from L. Francis Cissna, Director, U.S. Citizenship and Immigration Services to USCIS Associate Directors and Program Office Chiefs, “Revision of the Naturalization Civics Test” (May 3, 2019) [https://www.uscis.gov/sites/default/files/document/memos/Revision\\_of\\_the\\_Naturalization\\_Civics\\_Test\\_D1\\_Signed\\_5-3-19.pdf](https://www.uscis.gov/sites/default/files/document/memos/Revision_of_the_Naturalization_Civics_Test_D1_Signed_5-3-19.pdf).

200 students participated in the pilot of the new test, while the 2008 test was piloted to more than 6,000 students.<sup>16</sup>

Just three months later, on November 13, 2020, USCIS announced the new test and provided a revised list of 128 civics questions. Despite the major delays and changes to the process that were caused by the pandemic, USCIS managed to release the new test ahead of its initial timeline of December 2020-early 2021. USCIS chose to double the number of questions on the test, from 10 to 20, and to ask all 20 questions of applicants, instead of stopping when they achieve a passing score. A USCIS spokesperson said that doubling the number of questions “provides a more accurate measurement” of applicants’ understanding of civics and “ensures the reliability and validity of scores.”<sup>17</sup> Yet, to our knowledge, no one with professional expertise in assessment was involved in the test redesign process.

USCIS’s process to revise the civics test lacked transparency and stakeholder outreach, it lacked the input of subject matter experts, and it lacked a sufficient pilot process that could demonstrate a comparable passage rate. This test is not ready to be implemented. CLINIC suggests that USCIS withdraw the test, seek additional stakeholder feedback, additional feedback from subject matter experts, and to pilot the test to a far larger number of students.

**VI. The content of the citizenship test was changed dramatically without sufficient justification or analysis on the impact of implementing a more burdensome and time-consuming test.**

USCIS made major changes to the content of the citizenship test. The number of study questions was increased by almost 30 percent, from 100 to 128. A side-by-side comparison of the new test with the previous version shows that only 40 of the old questions were retained, while the rest (88 questions) are either new or re-phrased.<sup>18</sup> An analysis of the test by an expert in adult education who consulted on the 2008 test redesign project found that 47 questions (both new and re-phrased) are problematic.<sup>19</sup> The reasons they are problematic include: use of abstract words, phrases are difficult to remember or produce, the answer is more demanding than the previous version, advanced cognitive level, unnecessarily complex phrasing, advanced level vocabulary, awkward grammatical structure, and very high conceptual level. Some examples include:

- What is the purpose of the 10<sup>th</sup> Amendment? • (It states that the) powers not given to the federal government belong to the states or to the people.
- What was the Great Depression? • Longest economic recession in modern history.
- Why do U.S. representatives serve shorter terms than U.S. senators? • To more closely follow public opinion.

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<sup>16</sup> U.S. Citizenship and Immigration Services, USCIS Announces New Naturalization Test, News Release (Sept. 27, 2007).

<sup>17</sup> Maria Sacchetti, Trump Officials Unveil New U.S. Citizenship Test, as Advocates Worry It Is Too Long, Difficult, and Politicized, WASHINGTON POST (Nov. 13, 2020), [https://www.washingtonpost.com/immigration/new-us-citizenship-test-trump/2020/11/13/2029723e-25e9-11eb-8672-c281c7a2c96e\\_story.html](https://www.washingtonpost.com/immigration/new-us-citizenship-test-trump/2020/11/13/2029723e-25e9-11eb-8672-c281c7a2c96e_story.html).

<sup>18</sup> Some questions have been re-phrased to be more difficult. For example, the previous test asks the applicant to name three of the original 13 states, while the new test asks the applicant to name five.

<sup>19</sup> The questions were reviewed by Lynne Weintraub, a long-time adult educator, textbook author, test developer, and consultant on the 2008 test redesign project.

In addition, some of the questions are blatantly political in nature. In these questions, USCIS seeks to dictate to members of Congress their scope of representation:

- Who does a U.S. senator represent? • Citizens of their state (changed from “all the people” of the state)
- Who does a member of the House of Representatives represent? • Citizens in their (congressional) district • Citizens in their district

It is unclear why such major revisions are necessary, when so much time and effort went into the previous test revision process over a six year period, with a great deal of input from subject matter experts, including the National Academy of Sciences.<sup>20</sup> USCIS has not provided sufficient justification for replacing previous content, adding new content, and re-phrasing existing content on the test, as the entire process was conducted in secret with no opportunity for stakeholder input. In addition, USCIS has not shown that it consulted with experts in assessment, or that it incorporated the recommendations of the experts on the TAG. If USCIS had used the APA process to make changes to the test, we would know the answers to these questions because the methodology would have been explained.

In its initial announcement on the test revisions in July 2019, USCIS stated that the new test would be meaningful and would “serve as an accurate measure of a naturalization applicant’s civics knowledge.” However, by increasing the level of difficulty, USCIS has achieved the opposite. One expert notes, “As a teacher and textbook author, I will be forced to coach students to do rote memorization, rather than try to explain the content, because the conceptual level is too high for beginner or intermediate-level students.”<sup>21</sup>

USCIS has not addressed how implementing a test that doubles the length of the test taking portion of the naturalization interview will impact its current backlog of naturalization applications and burgeoning processing times.<sup>22</sup> The processing delays have only worsened during the pandemic,<sup>23</sup> making it difficult to understand how USCIS will be able to improve processing times, clear backlogs, and implement a new test that will require more interview time. USCIS should provide the public with a full analysis of how it plans to manage the additional burdens of transitioning to the more time-consuming test while also reducing its backlog of applications. Further, USCIS should advise the public of how it intends to do this without also adding to its significant financial issues.<sup>24</sup>

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<sup>20</sup> See CATHOLIC LEGAL IMMIGRATION NETWORK, INC., A MORE PERFECT UNION 51-58 (2007) (providing a history of the test revision process that culminated with a new test in 2008) <https://cliniclegal.org/resources/citizenship-and-naturalization/more-perfect-union-national-citizenship-plan>.

<sup>21</sup> Posting of Lynne Weintraub to the Naturalization Working Group listserv (Nov. 17, 2020) (on file with author).

<sup>22</sup> DHS Office of the Citizenship and Immigration Services Ombudsman, Annual Report to Congress (June 30, 2020), [www.dhs.gov/sites/default/files/publications/20\\_0630\\_cisomb-2020-annual-report-to-congress.pdf](https://www.dhs.gov/sites/default/files/publications/20_0630_cisomb-2020-annual-report-to-congress.pdf).

<sup>23</sup> Michelle Ye He Lee, “Citizenship applicants caught in backlog distraught over inability to vote this year: ‘I feel like my voice is not going to count,’” WASHINGTON POST (Aug. 31, 2020) [www.washingtonpost.com/politics/citizenship-applicants-caught-in-backlog-distraught-over-inability-to-vote-this-year-i-feel-like-my-voice-is-not-going-to-count/2020/08/31/b77271ca-e932-11ea-970a-64c73a1c2392\\_story.html](https://www.washingtonpost.com/politics/citizenship-applicants-caught-in-backlog-distraught-over-inability-to-vote-this-year-i-feel-like-my-voice-is-not-going-to-count/2020/08/31/b77271ca-e932-11ea-970a-64c73a1c2392_story.html).

<sup>24</sup> Press Release, Deputy Director for Policy, U.S. Citizenship and Immigration Services, Statement on USCIS’ Fiscal Outlook (June 25, 2020)

<https://www.uscis.gov/news/news-releases/deputy-director-for-policy-statement-on-uscis-fiscal-outlook>.

## VII. CLINIC Objects to the Short Period of Time Provided to Comment in the Midst of a Pandemic as Well as the Insufficient Time Provided for Transition

CLINIC opposes the short period of time in which to submit comments regarding this significant change. The public was given one month to respond to the changes to the policy manual, and halfway through that period, the changes go into effect. The changes to the civics test and the policy manual are significant and will have far-reaching effects on the naturalization process. One month is not enough time for the public to fully analyze the new test and meaningfully respond to this policy change. Under any circumstances, it would be wrong for the government to provide such a short time period to comment on changes that are this extensive, but the challenges to timely respond to the changes are currently magnified by the ongoing COVID-19 pandemic. The Centers for Disease Control and Prevention (CDC) have acknowledged the added stress of performing job functions during COVID-19.<sup>25</sup> Further, the agencies involved with immigration have been publishing a large number of proposed rules and policy changes in recent weeks, and practitioners must respond to them all in a similarly short period of time.

CLINIC also opposes the unreasonably short period of time that USCIS has provided in implementing the new test. In 2007, when USCIS announced the new civics test questions, it provided over a year for implementation. Specifically, USCIS' September 27, 2007, announcement reads, "(b)eginning October 1, 2008, U.S. Citizenship and Immigration Services (USCIS) will begin implementation of a redesigned naturalization test. All applicants who file for naturalization on or after October 1, 2008 will be required to take the redesigned test. For those applicants who file prior to October 1, 2008 but are not interviewed until after October 1, 2008 (but before October 1, 2009), there will be an option of taking the redesigned test or the current one."<sup>26</sup> In a sharp turn from its past practice, USCIS is now implementing the new civics test with just two weeks of notice which, as noted above, does not provide sufficient time for agencies that provide citizenship test preparation materials and training, to update their resources. We urge USCIS reconsider this unnecessarily aggressive timeline for implementation and delay implementation by at least one year.

For these procedural reasons alone, we urge the administration to rescind the policy and test changes. If it wishes to reissue the new test and associated policy manual changes, it should grant the public at least 60 days to have adequate time to analyze the new test and provide comprehensive comments and should provide a minimum of one year before implementing the new test. The government should welcome suggestions from experts in the field; instead the length and complexity of the new test coupled with the brevity of the comment period has left experts unable to sufficiently evaluate the changes and comment.

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<sup>25</sup> See Centers for Disease Control and Prevention, Employees: How to Cope with Job Stress and Build Resilience During the COVID-19 Pandemic, May 5, 2020, <https://www.cdc.gov/coronavirus/2019-ncov/community/mental-health-non-healthcare.html>.

<sup>26</sup>U.S. Citizenship and Immigration Services, USCIS Announces New Naturalization Test, News Release (Sept. 27, 2007).



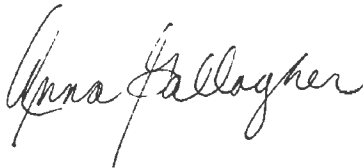
## VIII. Conclusion

We request that USCIS withdraw the new civics test and associated policy manual changes based on the objections described above. If USCIS wishes to proceed with these changes, it should do so after additional stakeholder feedback, contributions from subject matter experts, and pilot testing, and the new test should be introduced through the notice and comment process under the APA.

Thank you for your consideration of these comments. Please do not hesitate to contact Jill Marie Bussey, Director of Advocacy, at [REDACTED] with any questions or concerns about our recommendations.

(b)(6)

Sincerely,

A handwritten signature in cursive script that reads "Anna Marie Gallagher".

Anna Marie Gallagher  
Executive Director



**U.S. Citizenship  
and Immigration  
Services**

## Interoffice Memorandum

**TO:** USCIS Senior Leadership

**FROM:** Carrie M. Selby, Acting Associate Director, External Affairs

**DATE:** January 26, 2021

**SUBJECT:** Options Regarding Implementation of the 2020 Naturalization Civics Test

This memo proposes options regarding implementation of recent revisions to the naturalization civics test. On November 13, 2020, USCIS announced a revised naturalization civics test for all those applying for naturalization on or after December 1, 2020. Since then, we have received numerous comments from the public, which we believe affords us an opportunity to determine the best course of action to optimize the test from an operational, fairness, and educational/test-efficacy standpoint.

### Background

In general, applicants for naturalization must demonstrate an understanding of the English language, including an ability to read, write, and speak words in ordinary usage. Applicants must also demonstrate a knowledge and understanding of the fundamentals of the history and principles and form of government of the United States (civics). These are the English and civics requirements for naturalization.<sup>1</sup>

USCIS has implemented and revised several updates to the English and civics tests for naturalization. The tests are designed to comprise standardized content and to be administered by officers in the same way. The process to revise the most recent prior tests started in 2006 and resulted in changes that USCIS implemented in 2008. That version updated the content of the civics test and standardized the reading and writing portions of the test.

On November 13, 2020, USCIS announced plans to implement a revised version of the naturalization civics test.<sup>2</sup> The agency first announced plans to revise the civics test in July 2019.<sup>3</sup> Those applying for naturalization on or after December 1, 2020, are required to take the updated version of the test. Those applying before December 1, 2020, were required to take the 2008 version of the test. At the time of the November 13, 2020 announcement, USCIS stated in its Public Affairs Guidance that “[a]pplicants who submit their N-400 on or after that date will most likely be tested 4-6 months after the filing date. This time

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<sup>1</sup> See INA 312(a) and 8 CFR 312.

<sup>2</sup> <https://www.uscis.gov/news/news-releases/uscis-announces-a-revised-naturalization-civics-test>

<sup>3</sup> <https://www.uscis.gov/news/news-releases/uscis-announces-plan-to-improve-the-naturalization-test>

frame provides applicants adequate time to study and prepare for the new test.” In reality, applicants are already scheduled to take this new test in approximately 5 field offices out of 83 in January and February.

USCIS received thousands of comments about the 2020 revised civics test from external immigrant-serving stakeholders.<sup>4</sup> The below table provides more details about some of the stakeholder concerns and departures from past practices.

### Concerns and Departures from Past Practices

- **Test difficulty.** The new test is more difficult and represents an increased barrier to naturalization for a number of reasons including:
  - Applicants must now study 128 items instead of 100 items;
  - To pass, applicants must now correctly answer 12 of 20 instead of 6 of 10 items. For some applicants, particularly for elderly applicants who do not qualify for the 65/20 special consideration,<sup>5</sup> the additional questions may cause cognitive fatigue and affect test performance;
  - The overall language difficulty level of test items has increased.
- **Potential politicization of content.** The current test contains some inaccuracies/ errors by omission that to the could appear to be politically motivated. For example, the only official, acceptable answer to item 31 (*Who does a U.S. senator represent?*) is *citizens of their state* and, the only official acceptable answers to item 33 (*Who does a member of the House of Representatives represent?*) are *citizens in their (congressional) district* or *citizens in their district*. Missing from the acceptable responses are the non-citizen residents in the state/district. A question was posed to OP&S on acceptable response variations and are still awaiting a response.
- **Lack of public engagement and transparency.** During development of the 2008 version of the civics test, USCIS held regular public engagements to discuss the test and to address questions and concerns from the public. USCIS did not hold regular public engagements during development of the 2020 version of the civics test.
- **Lack of notice and fairness.** For the 2008 version of the civics test, USCIS notified the public a year in advance of test implementation; for the 2020 version of the civics test, USCIS provided two weeks of notice.
- **Litigation risk.** Some stakeholders believe that the new test implementation violates provisions of the Administrative Procedures Act. USCIS counsel previously expressed concern about the litigation risk posed by the limited notification period at a time when it appeared that the applicants would most likely take the 2020 version of the civics test no sooner than 4-6 months after the filing date. The concerns are now amplified given that applicants are currently being scheduled in some field offices only two months after the filing date.

Should the new administration opt to consider responding to these comments and concerns, USCIS believes the following three options could effectively address concerns expressed by stakeholders:

<sup>4</sup> An indicative sample of concerns from CLINIC can be found [here](#).

<sup>5</sup> Individuals eligible for special consideration based on age and length of time as a permanent resident (65/20) are asked 10 questions out of a bank of 20 questions. This is true of both the 2020 and 2008 versions of the test.

**Option 1.** Revert to the 2008 version of the test and consider proceeding with developing a new civics test based on a process designed by internal experts in history and civics, language acquisition, and assessment design. Pursuing this option would address all of the concerns outlined above and would allow for the opportunity to explore potential additional enhancements to the test that would improve efficiency of operations (e.g., multiple choice format, decoupling of interview and history and civics, English, speaking, reading and writing test from the eligibility interview). If leadership wishes to pursue this option, it is critical that a decision be made soon. The con with this option is that anyone scheduled for the revised test and is studying for the revised test would need to be rescheduled and provided ample time to study for the 2008 test.

(b)(5)

### Recommendation

The Office of Citizenship recommends pursuing the first option. It would immediately allay the concerns expressed by the public about the test content, test procedures, and the test rollout. While a few offices have administered the new test already, giving more time and following a process administered by experts for the development will mean that the large scale roll out in all field offices will be less disruptive to educators and applicants, and to field offices. If leadership determines that it would like to pursue a revision to the test, this pause in implementation would allow for more public outreach and input before the test is implemented. It also would allow for time to properly implement and update systems, educational materials, and training materials, and to pursue notice and comment rulemaking, if necessary.

Field Operations Directorate recommends options 2 or 3.

(b)(5)

Please note that any policy decision to return to a 10-question, as opposed to 20-question, format and/or end the practice of asking all questions regardless of when an applicant answers the requisite number of questions correctly or incorrectly to pass or fail, is a separate issue. Should leadership choose to discontinue these practices, either Option 1, in which we phase out the 2020 test, or Option 2, in which we modify it, could be pursued with a 10-question test format.

We are available to answer any questions, provide a briefing, and to assist in any way.



## MAGAZINE

LAW AND ORDER

### Trump's New Citizenship Test Is Full of Conservative Bias—And Dotted With Mistakes

People seeking U.S. citizenship deserve better.



Colombian immigrant Paola Parra swears to tell the truth before taking her oral citizenship test at the U.S. Citizenship and Immigration Services Queens office on May 30, 2013 in New York City. | John Moore/Getty Images

By STEVEN LUBET  
12/03/2020 09:40 PM EST



Steven Lubet is the Edna B. and Edmyfed H. Williams Memorial professor of law at Northwestern University.

**O**n December 1, 2020, the U.S. Citizenship and Immigration Service began administering a new naturalization test to those hoping to become U.S. citizens. The test draws from 128 potential civics questions, with the approved answers posted on the USCIS website. The test is given orally, and all applicants for naturalization will have to answer 20 of those questions chosen at random, with a passing score of 12.



When the test was first released a few weeks ago, many critics focused on its needless difficulty and complexity. The previous iteration of the test, last revised in 2008, required applicants to answer six of 10 questions, drawn from a pool of only 100. Several new questions call for biographical details about Alexander Hamilton, James Madison and Dwight Eisenhower, while another asks for “the purpose of the 10th Amendment.” Critics of the new test believe that it is intended to create an additional and unnecessary barrier to naturalization.

AD

But perhaps the most significant feature of the test is its decidedly conservative political tilt, sometimes to the point of inaccuracy.

Certain questions, for example, reflect the Trump administration's position in a case that is currently under Supreme Court review. Earlier this week, the court heard oral argument in a challenge to Trump's unprecedented attempt to exclude unauthorized immigrants from the census count for the purpose of apportioning seats in the House of Representatives. All nine justices seemed fairly skeptical of Trump's plan, with Justice Amy Coney Barrett observing that “a lot of the historical evidence and longstanding practice really cuts against [Trump's] position.” After all, the 14th Amendment provides that representatives be apportioned according to “the whole number of persons in each State,” which has always previously been thought to mean exactly what it says.

We are unlikely to get a definitive answer from SCOTUS any time soon. (It appears probable that a host of complex procedural issues will send the case back to the lower courts for further consideration.) But fiddling with the census was not the Trump administration's only opportunity to change our understanding of representation by limiting it to U.S. citizens. Here are two questions on the new naturalization test, as well as the only approved answers from the USCIS study guide, now embodying the Trump administration's revisionist approach to government:

31. Who does a U.S. senator represent?

· Citizens of their state

33. Who does a member of the House of Representatives represent?

· Citizens in their [congressional] district

· Citizens in their district The acceptable answers have been changed from the 2008 iteration of the test, which accurately (at least for now, unless the Supreme Court decides otherwise) stated that U.S. senators represent “all people of the state.”



AD

Does that mean anyone who answers “all people” rather than “citizens” will be marked incorrect? The examinations are administered orally by individual USCIS officers, who have some discretion, so it is impossible to know how often “all the people of the state” would be considered wrong, perhaps leading to a flunked test. But the instructions on the USCIS website explain that while “there may be additional correct answers to the civics questions, applicants are encouraged to respond” using only the sample answers. Regardless, the quite evident intent of the drafters was to change the model answer, from which applicants study for the exam, as part of a larger attempt to transform the government’s approach to representation.

It’s not hard to find more evidence of the test’s pronounced conservative bent. There are five questions and answers that include the *Federalist Papers*, revered by today’s American conservatives, including the Federalist Society, a legal organization whose members have included many of Trump’s judicial nominees, and *The Federalist*, a right-wing magazine. In contrast, there are only two questions about the civil rights movement and three about women’s suffrage. The study guide’s obsession with the *Federalist Papers* even leads to the inclusion of one acceptable answer that is flatly incorrect:

14. Many documents influenced the U.S. Constitution. Name one.

- Declaration of Independence
- Articles of Confederation
- Federalist Papers
- Anti-Federalist Papers
- Virginia Declaration of Rights
- Fundamental Orders of Connecticut
- Mayflower Compact
- Iroquois Great Law of Peace

The *Federalist Papers*, however, were published to urge adoption of the Constitution, which had already been written and circulated, and therefore could not have “influenced” the Constitution. (The same is true of the Anti-Federalist Papers.)

The conservative spin does not stop there. For example,

65. What are three rights of everyone living in the United States?

- Freedom of expression
- Freedom of speech
- Freedom of assembly
- Freedom to petition the government

- Freedom of religion
- The right to bear arms



Notably missing from the UCSIS answer list are the rights to counsel, due process, equal protection, and freedom from cruel and unusual punishment or unreasonable search and seizure. An aspiring citizen who gave one of those responses could presumably be marked wrong. Nor does “everyone” have the right to bear arms. It is a felony under current federal law for convicted felons, among others, to possess firearms or ammunition.

AD

Here is another incomplete answer from the study guide:

2. What is the supreme law of the land?

- [U.S.] Constitution

In fact, Article VI provides that the supreme law of the land additionally includes the “Laws of the United States [and] all Treaties made.” While the Constitution is the most supreme of our laws, it also clearly provides that “Judges in every state shall be bound” by federal statutes and treaties. That is no doubt upsetting to extreme states’ rights advocates, which may explain why the test includes a specific question about what the 10th Amendment provides—answer: “powers not given to the federal government belong to the states or to the people”—but none about the 5th (the right to avoid self-incrimination) 6th (the right to counsel), or 8th (the ban on cruel and unusual punishment).

There are other problems with the civics test, including its unnecessary complexity, its obsession with battles and wars, and the fact that only a single answer set includes any women by name (there are 11 naming men). The word “democracy” appears just once. The first section on the 2008 test was titled “Principles of American Democracy,” now ominously replaced by “Principles of American Government.”

The most recent time the test was revised, the Bush administration posted an advance “pilot” of 144 proposed questions, many of which included errors, omissions and shortcomings. The 100 questions that made the final cut corrected most of the mistakes—after I pointed them out in an article for Salon, although I have no way of knowing whether I actually deserve any credit. The Trump administration created no similar opportunity for correction, instead publishing an overtly partisan test that is sometimes just plain wrong.

Successful applicants will have studied hard to obtain their cherished U.S. citizenship, and it is a shame for USCIS to mislead them so badly about the nature of the government to which they will soon pledge allegiance



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Office of Public Affairs

## Media Response to Query

**ISSUE:** U.S. Citizenship and Immigration Services (USCIS) is updating policy guidance in the USCIS Policy Manual regarding the rescission of guidance for the civics educational requirement for naturalization.

**LAST MODIFIED:** February 5, 2021

**POC:** Marilu Cabrera –

(b)(6)

*Public Affairs Guidance, Talking Points, Response to Queries and Official Statements contain information and answers to specific questions, guidance and instructions, and key messages **used for responding to media and congressional queries**. The following information does not permit you to speak on behalf of USCIS, unless you are a Public Affairs Officer or are explicitly authorized to address external audiences (media, stakeholders, etc). These materials are for reference only – please contact OPA’s Media Division for assistance or with questions.*

### **GUIDANCE**

Response to Query

### **BACKGROUND:**

In general, applicants for naturalization must demonstrate a basic understanding of the English language and a knowledge and understanding of civics.<sup>1</sup> Applicants have two opportunities to pass the related English and civics tests.<sup>2</sup>

On Dec. 1, 2020, USCIS implemented the 2020 version of the civics test (“2020 civics test”), which updated the number of questions to be studied (from 100 to 128) and updated the number of correct test items for passing from six out of 10 to 12 out of 20. USCIS is now reverting to the 2008 version of the civics test.

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<sup>1</sup> See INA 312(a), (8 U.S.C. 1423(a)). An applicant may be eligible for an exception to the English requirements based on age and time as a lawful permanent resident. See INA 312(b)(2). An applicant who has a physical or developmental disability or mental impairment may be eligible for a medical exception to the educational requirements. See INA 312(b)(1).

<sup>2</sup> This includes the initial examination and re-examination (if needed). See 8 CFR 312.5(a) and 8 CFR 335.3(b).



## U.S. Citizenship and Immigration Services

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**This update, contained in Volume 12 of the Policy Manual, becomes March 1, 20121**

### **KEY MESSAGES:**

- On March 1, 2021, USCIS will revert to the 2008 version of the civics test. USCIS determined the 2020 civics test content, testing procedures, and implementation schedule may inadvertently create potential barriers to the naturalization process. This action is consistent with the framework of the Executive Order on Restoring Faith in Our Legal Immigration Systems, which directs a comprehensive review of the naturalization process.
- There will be a brief period during which USCIS may offer both versions of the test to accommodate certain applicants who filed for naturalization on or after December 1, 2020 but prior to March 1, 2021 and are scheduled for an interview before April 19, 2021.

### **RESPONSE TO QUERIES:**

#### **Q. Why is USCIS reverting to the 2008 naturalization civics test?**

A. On Dec. 1, 2020, USCIS implemented a revised naturalization civics test as part of a decennial test review and update process. On March 1, 2021, USCIS will revert to the 2008 version of the civics test. USCIS determined the 2020 civics test content, testing procedures, and implementation schedule may inadvertently create potential barriers to the naturalization process. This action is consistent with the framework of the Executive Order on Restoring Faith in Our Legal Immigration Systems, which directs a comprehensive review of the naturalization process.

#### **Q. When did USCIS review comments from the public to the test? Wouldn't that review typically take place before implementing the test?**

A. The 2020 test was announced on Nov. 13, 2020 and implemented Dec. 1, 2020. Comments from the public were received after those dates. USCIS is still reviewing comment from the public.

#### **Q. What were some of the specific concerns with the 2020 test expressed in the comments USCIS received?**

A. Multiple commenters noted that there was little advance notice before implementation of the 2020 civics test, which raised concerns about limited time for study and preparation of training materials and resources.

#### **Q. When will this change take place?**



## U.S. Citizenship and Immigration Services

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A. The Policy Manual update is effective March 1, 2021. There will be a brief period during which USCIS may offer both versions of the test to accommodate certain naturalization applicants who filed their Form N-400, Application for Naturalization, on or after December 1, 2020 and prior March 1, 2021 and are scheduled for an interview before April 19, 2021. This is because such applicants may have already been studying for the 2020 civics test. Please see table below for more information.

**Q. How is USCIS informing the public of this change?**

A. USCIS has a robust network of stakeholders with whom we communicate regularly. We are currently communicating with them, as well as directly contacting applicants who may be affected in the immediate future. We will also reach out to national, local, and ethnic media.

**Q. If an applicant has already studied for the 2020 version of the test, will they be able to choose which test to take?**

A. Applicants who filed on or after Dec. 1, 2020 and before March 1, 2021, who have an initial examination (interview) on or before April 19, 2021, will have the choice to take either the 2020 or 2008 versions of the civics test. Please see chart below.

**Q. How many people have already taken the 2020 test?**

A. Since Dec. 1, 2020, 110 have taken the test with a pass rate of 96%

**Q. What is the final date when only the 2008 test will be offered at initial interview?**

A. Please see table below.

**Q. Will applicants who took the 2020 version of the test and failed have the opportunity to retake the 2008 version? Does USCIS know how many people have failed the 2020 test since it began administering in December 2020?**

A. Applicants who took the 2020 test and failed will be given the opportunity to retake the test again, using their choice of either the 2008 or the 2020 version of the civics test. All naturalization applicants have 2 opportunities to take the test before their application is denied. Applicants may also have another opportunity to pass the failed portion of the tests if they request a rehearing under INA 336(a) of a denied naturalization application. Please see table below.



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**Q. Is the 2019 Revision of the Naturalization Civics Test Memorandum, signed by former USCIS director L. Francis Cissna, announcing the revision of the naturalization test and formalizing a decennial revision schedule of the naturalization test still valid?**

A. USCIS will continue reviewing the naturalization test every 10 years in accordance with adult education best practices. The decennial revision of the test ensures that it continues to serve as an accurate measure of a naturalization applicant's civics knowledge and that it reflects best practices in adult education assessments. The goal is to create a meaningful, uniform, and efficient test that will assess applicants' knowledge and understanding of U.S. history, government and values. USCIS will review possibly developing a new civics test based on a process designed by internal experts in history and civics, language acquisition, and assessment design that USCIS believes will alleviate the concerns raised regarding the 2020 test.

**Q. Has USCIS begun developing a new test and when will the new test be implemented?**

A. USCIS is currently working on utilizing the research and efforts gathered from the original update begun in 2019. We will also seek the input from additional groups outside of USCIS to ensure the process is thorough and inclusive. Comments that were provided regarding the 2020 test are also being taken into account as part of this update.

**Q. Which civics test will I take?**

A.

### **Applications Filed on or After December 1, 2020 and Before March 1, 2021**

<b>Date of Initial Exam (Interview)</b>	<b>Civics Test Version on Initial Exam, Re-exam, or N-336 Hearing</b>
<del>On or</del> Before April 19, 2021	2020 Civics Test or 2008 Civics Test (applicant's choice)
On or After April 19, 2021	2008 Civics Test

**Applicants who filed their Form N-400 before December 1, 2020, will continue to take the 2008 civics test at initial exam, re-exam, or N-336 hearing.**



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**Applicants who file their Form N-400 on or after March 1, 2021 will also take the 2008 civics test at initial exam, re-exam, or N-336 hearing.**

**Q. What if the options above don't apply to me because I have already taken the 2020 civics test, but failed at my initial interview?**

If you filed your Form N-400 on or after Dec. 1, 2020, and before March 1, 2021, and have already taken the 2020 civics test, but failed, you may choose between the 2020 or 2008 civics tests at your second appointment.

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