

ATTACHMENT G

SUBJECT: Summary of Section 312 Disability Naturalization
Adjudications Memorandum

**SUMMARY OF APRIL 6, 1999 MEMORANDUM ON
SECTION 312 DISABILITY NATURALIZATION ADJUDICATIONS**

The memorandum described in this summary provides comprehensive policy guidance for the review of all Forms N-648, Medical Certification for Disability Exceptions and supercedes all previous memoranda on the subject. This summary is intended to provide the highlights of the information included in the memorandum. However, Supervisory District Adjudications Officers (SDAOs) should ensure that all District Adjudications Officers (DAOs) on their staff are thoroughly familiar with the memorandum in full.

A. Disability Exceptions under Section 312 (page 2): This section reiterates the standard requiring doctors who complete N-648s to establish that the applicant has a physical or mental abnormality that has impaired an individual's functioning so severely that the individual is unable to learn or demonstrate knowledge of English and/or U.S. history and government. Applicants whose disability exception requests have been accepted must still establish good moral character, residence, assent to the oath, etc.

B. Medical Professionals Authorized to Complete the N-648 (page 3): As of March 22, doctors of osteopathy are authorized to complete N-648s along with medical doctors and clinical psychologists. All N-648s should be reviewed based on the standard of review outlined in Section E below, without regard to the type of authorized medical professional completing the form or the type of disability or impairment diagnosed. Therefore, diagnoses of mental impairments by general practitioners or family doctors are acceptable if the N-648 is otherwise sufficient.

C. Validity and Timeliness of the N-648 (page 3): The first time an applicant submits an N-648, it is valid as long as it was completed and signed by a certifying physician within six months of when it was submitted. However, if the applicant's first N-648 was deemed insufficient and the applicant submits an amended or second N-648, the second or amended N-648 is valid, even if it is more than six months old, as long as it was completed and signed after the date of the applicant's first interview and was submitted by the date specified by the Service in the N-14.

D. Appropriate Role of Adjudicators in Reviewing N-648s (page 3): DAOs should not deny the existence of a disability or impairment by questioning the doctor's diagnosis and should not: (1) direct or recommend that applicants undergo specific medical tests to establish their disability; (2) require that applicants or doctors provide the names or dosages of medications prescribed; or (3) refer applicants to commercial medical referral services listed in telephone directories or to any specific medical provider.

E. Standard of Review of the N-648 (page 4): This section provides that DAOs should allow applicants to complete missing identifying information at the time of the interview (e.g., applicant's signature or A number) and that **DAOs should not require doctors to provide an explanation of how they reached their diagnosis, or provide a**

listing of clinical or laboratory techniques used to reach the diagnosis. However, doctors must provide a sufficiently thorough explanation of how the condition they diagnosed has impaired the functioning of the applicant so severely that the applicant is unable to learn or demonstrate knowledge of English and/or U.S. history and government. The three-part review standard described in this section focuses on the nexus between the condition and the applicant's inability to learn, and is exactly the same for all N-648s, regardless of the type of condition described, including diagnoses of depression or conditions related to old age. See **Attachment A** for examples of insufficient and sufficient responses to Question 3 on the N-648.

F. Procedures for Review of and Action on N-648s (page 6): Section F addresses what actions officers should take at each stage of the interview process when an N-648 is involved, including when the applicant should be tested on English and civics and what information should be included in denials based on section 312 when an N-648 has been rejected. For instance, all applicants appearing for an initial interview should be tested for the first time on English and civics, unless an N-648 has been presented and accepted. However, if the applicant is unable to be sworn in because of an inability to understand English, the DAO should not test the applicant on written English or civics and should explain that the applicant has not met the requirement of being able to understand English but will have another opportunity to meet the English and civics requirements. At all stages in the N-648 review process, DAOs should keep the applicant informed about the status of the N-648 review process, whether the applicant will be tested on English or civics, and in which language the interview will be conducted. **All district offices must use the following attachments related to the N-648 process and discontinue use of any local or previous request for information sheets prepared for Form N-648s:**

- (1) an Information Sheet that provides applicants with additional information about the N-648 and how to complete it properly (**Attachment B**);
- (2) a revised Notice of Incomplete N-648 ("Notice") (previously titled Request for Additional Information) (**Attachment C**);
- (3) A sample Notice that has been properly completed (**Attachment D**); and several sample paragraphs for inclusion in the Form N-335, Decision on Application for Naturalization, that will advise applicants of the bases for rejection of an N-648 (**Attachment E**).

G. Final Denials of N-400s with N-648s (page 11): To ensure consistency in preparation of N-400 denials in disability cases, officers should include the bases for rejection of an N-648 in the attachment to the Form N-335. See **Attachment E** for sample language that will advise the applicant of the bases for rejection of the N-648.

J. Denials of Naturalization Applications Based on Failure to Assent to the Provisions of the Oath of Allegiance (page 13): Congress has not waived the oath of allegiance requirement for persons with disabilities. DAOs must determine that the applicant: (1) understands he or she is becoming a United States citizen; (2) is forswearing allegiance to his or her country of nationality; and (3) is personally and

voluntarily agreeing to a change in status to that of a United States citizen. DAOs must make reasonable accommodations to allow the applicant to establish assent to the oath such as by allowing the applicant to answer questions with “yes” or “no” answers. DAOs must also make reasonable accommodations to allow applicants with disabilities to demonstrate their assent to the requirements of the oath of allegiance, such as allowing the applicant to establish assent through predetermined physical motions or signals that the applicant uses to communicate certain meanings. For naturalization applicants who are unable to assent to the provisions of the oath (even with reasonable accommodations or modifications), offices should prepare standard Form N-335 and use the attached template (**Attachment F**).

K. Reasonable Accommodations and Modifications under the Rehabilitation Act

(page 14): Applicants are not required to file an N-648 or present a letter or other documentation from their doctor to request an accommodation or modification to the naturalization process because of a disability. See this section for additional information about how to make reasonable accommodations in different stages of the naturalization process.