

MEMORANDUM

TO: All Deputy Chief Immigration Judges
All Assistant Chief Immigration Judges
All Immigration Judges
All Court Administrators
All Judicial Law Clerks

FROM: The Office of the Chief Immigration Judge

SUBJECT: Operating Policy and Procedures Memorandum No. 97-8, Naturalization Oath Ceremonies

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I. Introduction

United States citizenship is our most precious national possession. Naturalization is the process mandated by Congress by which United States citizenship is conferred upon aliens. The climax of the naturalization process is the induction ceremony at which time new citizens take the Oath of Allegiance to the United States. Naturalization ceremonies are uplifting and joyous events. They require a level of dignity and ceremony commensurate with the significance of the occasion. The Attorney General, by regulation, has included Immigration Judges among the officials authorized to administer the Oath to new citizens in administrative naturalization ceremonies.

II. Background

Prior to 1990, applicants for United States citizenship filed naturalization petitions in federal and (in limited instances) state courts. The process required initial application to the Immigration and Naturalization Service (INS). An INS naturalization examiner would examine the applicant to determine if he/she was eligible to file a petition for naturalization in the federal or state court.

Except for a few minor changes, the requirements for naturalization prior to 1990 have remained unchanged. In general, an applicant for naturalization must meet the following requirements:

- Be a lawful permanent resident in the United States for a period of five years (three years, if married to a U.S. citizen);
- Be physically present in the United States for at least half of that time;
- Reside for at least three months within the state (or INS jurisdiction) in which the naturalization application was filed;
- Absent special circumstances, avoid taking trips outside the United States during one's period of eligibility for periods in excess of six months;
- Have not advocated anarchy or totalitarian forms of government or been a member of or affiliated with any such organization that advocates such conduct;
- Demonstrate good moral character;
- Demonstrate an understanding of and attachment to the fundamental principles of the U.S. Constitution;
- Have the ability to read, write and speak English; and
- Be willing to renounce one allegiance to one's former country and any titles of nobility.

After naturalization applicants passed their examination before an INS naturalization examiner, they were instructed to file their petitions with the court and await a final hearing date. At the final hearing, the designated naturalization examiner would request the court to grant their petitions for naturalization upon the taking of the Oath of Allegiance to the United States. The judge presiding at the final hearing would then grant the Government's motion and administer the Oath to the new citizens.

Section 401 of the Immigration Act of 1990 transferred sole naturalization authority from the courts to the Attorney General. Section 102(a) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991, however, permitted the federal and state courts which previously exercised naturalization jurisdiction to elect to retain exclusive jurisdiction to administer

the Oath of Allegiance. See section 310(b) of the Immigration and Nationality Act. In jurisdictions where the courts have not exercised this option, and/or in instances where they have elected to retain exclusive jurisdiction, but are not able to meet the statutory time limits for scheduling oath administration ceremonies, the responsibility to administer the Oath of Allegiance falls on the Attorney General.

Prior to July 24, 1995, the Attorney General had given exclusive jurisdiction to administer the Oath of Allegiance in administrative naturalization ceremonies to the INS. (The Commissioner of INS has further delegated this authority to INS District Directors, Deputy District Directors, Officers-in-Charge, and Assistant Officers-in-Charge). On July 24, 1995, the Attorney General amended 8 C.F.R. 337 by extending jurisdiction to Immigration Judges concurrent with the INS to administer the Oath of Allegiance in administrative naturalization ceremonies. By extending concurrent jurisdiction to her own judges to administer the Oath of Allegiance, the Attorney General furthered the goal set out by Congress in the administrative naturalization process that the Oath ceremonies have the basic elements of a court ceremony with the dignity and decorum inherent in such a ceremony.

Subsequently, the Executive Office for Immigration Review (EOIR) and the INS, at the Headquarters level, drafted a Memorandum of Understanding (MOU) to implement the new regulations. The MOU (Attachment #1) has now been approved by the Director of EOIR and the Commissioner of INS. Pursuant to the MOU, this Operating Policy and Procedures Memorandum (OPPM) sets out implementation instructions for this new initiative. Please read the MOU carefully.

The MOU leaves exclusive responsibility with the INS for all logistical support in setting up naturalization ceremonies (except when such ceremonies are held within the Immigration Courts). Specifically, in all administrative oath ceremonies, INS will be responsible for all basic ceremony preparations as required under the Attorney General's Model Plan (see Attachment #2) including space procurement and set up (other than when Immigration Court space is to be used), invitation of civic or patriotic groups, sending notices to ceremony attendees, naturalization certificate preparation, and procurement of any other materials to be delivered to the new citizens at the ceremony. INS will also have sole responsibility for both the review of the Form N-445 prior to the ceremony and all other pre-oath taking administrative matters involving the new citizens. Lastly, INS will be responsible for all necessary reporting and record keeping of naturalization ceremony activities.

III. Establishing Local Liaison and Coordination with the INS

As discussed previously, federal and state courts may elect to exercise jurisdiction over the administration of the Oath of Allegiance. In most INS districts, the Federal Court has elected to retain jurisdiction over the oath administration. Immigration Judges will be able to administer the Oath of Allegiance only in those jurisdictions in which the federal or state courts have not opted to retain jurisdiction. The following INS districts conduct administrative naturalization:

Arlington (State of Virginia only)
Atlanta
Baltimore

Denver
Miami
Seattle

Other INS districts, however, may conduct administrative naturalization in part of the district. The Court Administrator should contact each INS office within its jurisdiction to determine whether it exercises administrative naturalization authority. Within **10 days** of receipt of this OPPM, the Court Administrator in each Immigration Court, which has jurisdiction over any INS district which conducts administrative naturalization, must contact the INS District Director (s) and /or Officers-in-Charge within the Court's jurisdiction to set up a meeting between the INS District Office (or sub-office) and the Immigration Court to implement the measures set out in Part III of the MOU. The Court should be represented at the meeting by the Liaison Judge or another Judge (selected by the court's supervisory Assistant Chief Immigration Judge (ACIJ) on the basis of expertise in naturalization) and the Court Administrator. INS should be encouraged to have the District Director or Officer-in-Charge (or his/her delegatee), the District Counsel, and the head of the district's or sub-office's naturalization program in attendance.

The agenda at this meeting should include:

- A. A general discussion of the parameters of the MOU and the need to have the local INS Office and the Immigration Court work closely together to ensure the MOU's effective implementation in keeping with the Attorney General's Model Plan for Administrative Naturalization Ceremonies. The Court attendees at this meeting should inform local INS officials during the course of this discussion that it is the Chief Immigration Judge's intent to honor (to the maximum extent judge resources permit) the Attorney General's priority delegation of authority to Immigration Judges to administer the Oath of Allegiance to new citizens. Further, in keeping with congressional intent and that of the Attorney General's Model Plan, the Chief Immigration Judge would like to ensure that all naturalization ceremonies adhere as closely as possible to the environment of a courtroom in keeping with the dignity and significance of conferring United States citizenship.
- B. A specific discussion of the program format, frequency, size, and location of the district's/sub-office's naturalization ceremonies. The respective responsibilities of the INS and the Immigration Court as delineated in the MOU and this OPPM in regard to naturalization oath ceremonies held outside of the Immigration Court also should be discussed and agreed upon. Normally, the role of the Immigration Court in such ceremonies will be limited to compliance with the relevant parts of the MOU as contained in Part III, items 2 and 5. Specifically, the Court Administrator should advise, in writing, the local INS District Director (or Officer-in-Charge) as soon as possible, but no later than 10 days prior to each administrative naturalization ceremony (of which the local Immigration Court has notice), whether an Immigration Judge will attend and, if one will attend the ceremony, the name of the attending

judge.

1. A specific goal, if possible, for this meeting should be to establish a schedule for naturalization ceremonies for the calendar year. While the MOU provides for only good faith efforts by INS to notify the Immigration Court within at least 30 days prior to each administrative naturalization ceremony, the practical likelihood is that each local INS office, in keeping with INS Headquarters requirements, has on file a complete schedule of such ceremonies for the remainder of the calendar year.

Likewise, INS should be reminded at this meeting that they are required, pursuant to the MOU, Part III, item number 3, to provide the Court with a list of the applicants' names, alien registration numbers, and countries of nationality. This information is to be provided at least three (3) business days before each ceremony at which an Immigration Judge will administer the oath. Each list should be organized so that it clearly and separately specifies those applicants who will take the regular Oath of Allegiance, and those who will take a modified Oath. For those taking a modified Oath, the list shall indicate which modified Oath is to be used. These lists should be retained by the Immigration Court for a period of 1 year before being discarded.

2. An annual meeting with INS should be scheduled in a timely manner so that the naturalization calendar for the upcoming calendar year can be established. By establishing the calendar expeditiously, any conflict with the court's regular calendar can be minimized. Depending on the flexibility of the local INS officer(s), this may be accomplished either by scheduling naturalization ceremonies for dates when local judges have open calendar time, or by seeking Immigration Judge agenda modification from your ACIJ to accommodate the INS ceremony schedule. Note that pursuant to INS Operating Instruction 337.4 Ceremony Calendars and 337.5(a) Abbreviated Ceremony (see Attachment #3), each INS office conducting naturalization activities is required to forward by January 31 of each year to the Assistant Commissioner, Adjudications, a calendar of Oath ceremonies reflecting dates, locations, and the number of persons anticipated to attend each ceremony. Ask INS to provide your court with a copy of this document.
3. Another objective of the annual meeting should be to explore whether the local INS district or sub-office has any interest in holding regularly scheduled naturalization ceremonies at the Immigration Court.
 - (A) If there is local INS interest, then a detailed discussion should be held covering: prospective ceremony frequency; specific dates and times the court would be available; the number of new citizens and their

guests that could be accommodated per ceremony with the largest local (ceremonial) courtroom; the format for the program (a recommended format for a naturalization Oath ceremony within the Immigration Court is included as Attachment #4); and the delineation of responsibilities between the Immigration Court (subject to the approval of your ACIJ) and the INS in setting up and running such ceremonies. Use of the ANSIR Inter-Active Scheduling System for scheduling Nationalization Oath Ceremonies in the Immigration Court requires prior permission of your Assistant Chief Immigration Judge and coordination with the Office of the Associate Director's System Staff.

In your discussion with INS regarding conducting naturalization Oath ceremonies in your court, you should also cover the following items:

- 1). Recommend to INS that in order to ensure timely and effective communications between naturalization applicants and the INS regarding the status of their naturalization applications, notices to the applicants to appear at Oath ceremonies in the Immigration Court should contain an INS return address and phone number for correspondence and inquiry purposes.
- 2). Likewise, suggest to INS that when the Oath is to be administered by an Immigration Judge, the INS, in preparing the Certificates of Naturalization should insert "Immigration Court, city, state)", in the Certificate pursuant to the instructions of page 45 of the INS memorandum dated September 15, 1991, entitled "Implementation of Administrative Naturalization." All Certificates of Naturalization should be prepared by INS prior to the Oath ceremony for delivery to the new citizens at the ceremony.
- 3). Also, request that INS provide adequate staffing at all Oath ceremonies in our court to ensure timely completion of all pre-oath taking administrative functions including the adjudication of all N-445s and collection of Alien Registration Cards. Additionally, INS should ensure that an INS attorney or designated naturalization examiner is present at each ceremony to make an oral motion to the Immigration Court seeking administration of the Oath of Allegiance on the basis that each of the naturalization applicants have been examined by a designated naturalization examiner and been found

qualified for United States citizenship.

- 4). Lastly, inform INS that in an administrative naturalization Oath ceremony held in an Immigration Court, local court personnel will be responsible for courtroom setup and clean up.

- (B) Absent policy directing that naturalization ceremonies be held in the Immigration Court, where there is no immediate INS interest in having the Court host the ceremony, the Court's offer remains open should INS later desire to use the Immigration Court for such ceremonies, including abbreviated ceremonies when in the national interest pursuant to INS Operating Instruction 337.5(a), Abbreviated Ceremony (see Attachment #3).

IV. Scheduling Immigration Judges for Naturalization Oath Ceremonies

Normally, Immigration Judges will be scheduled by their ACIJs for administering the Oath at naturalization ceremonies on a regular rotation basis, open docket permitting, in the following order: current Liaison Judge, then by seniority. Local deviations from the approved rotation schedule must be cleared in advance with your ACIJ.

V. Scheduling Priority of Naturalization Oath Ceremonies

The primary responsibility of the Immigration Court is the expeditious handling of its regular caseload. Nonetheless, I view administering the Oath of Allegiance to new citizens as an important function for Immigration Judges. Every effort should be made by ACIJs and Court Administrators to provide an Immigration Judge for each naturalization Oath ceremony within a local court's jurisdiction.

After obtaining the schedule of Oath ceremonies from the INS, the ACIJ and Court Administrator will review the local court's dockets to determine if scheduling conflicts exist because of a lack of judge resources. Based on the ACIJ's determination of available judge time, the Court Administrator will timely advise the INS (pursuant to the MOU) of those dates when an Immigration Judge will not be in attendance.

A final list (which has been approved by your ACIJ) of Administrative Naturalization Ceremonies that Immigration Judges from your Court will attend (which includes the ceremony dates, locations, and the anticipated number of new citizens) must be provided 30 days after receipt of the INS calendar of Oath ceremonies to the Office of the Chief Immigration Judge (OCIJ) and to the INS locally. The list should highlight any ceremonies to be held in the Immigration Court. The list should also reflect the name of the judge scheduled to be present at each ceremony.

VI. Special Naturalization Ceremonies and Enhancement of Already Scheduled Ceremonies

I wish to emphasize again that the INS has the responsibility of setting up and running the Naturalization Oath Ceremonies. Any local interest by an Immigration Judge or Court Administrator in contacting the local INS to modify or to “enhance” (i.e., invite additional speakers or civic groups) an already scheduled ceremony, or to naturalize a particular naturalization applicant not listed on a list of naturalization candidates provided to the Immigration Court by the INS pursuant to part III, 3 of the MOU; or to change or expand the number or locations of these ceremonies requires the approval of your ACIJ before any such contact is made.

VII. Responsibility of the Immigration Judge at a Naturalization Oath Ceremony

At the ceremony, the assigned Immigration Judge shall wear his/her judicial robe and will be responsible for administering the Oath of Allegiance to the new citizens and making preliminary comments to those in attendance. The presence of a robed Immigration Judge at such a ceremony for the purpose of administering the Oath of Allegiance to new citizens contributes significantly to the solemnity of the occasion. Likewise, the dignity of the ceremony is enhanced by the Immigration Judge addressing the new citizens upon the form and genesis of our government and the privileges and responsibilities of American citizenship.

A copy of the Oath of Allegiance is attached for your information (see Attachment #5). In addition, several sample naturalization ceremony remarks are included as guidance (see Attachment #6 and #7) for Immigration Judges in preparing their own remarks.

VIII. Local Deviations from the MOU or OPPM

Any local disagreements with the INS concerning proper implementation of the new regulation, MOU and OPPM that cannot be resolved at the local level should promptly be brought to the attention of your ACIJ.

Michael J. Creppy
Chief Immigration Judge