

Legal Pandemic-Caused Delays in Naturalization May Have Effect in This Election Year



Many applicants approaching the end of the lengthy process for naturalization have experienced further delay on the path to U.S. citizenship, due to the pandemic's effect on the requirements for naturalization mandated by law.

By Kristen Burke and Sarah Amendola | [August 27, 2020](#) | Texas Lawyer

With Election Day approaching, lawmakers are facing challenges to ensure that everyone who wants to vote can, and that they can do it safely. Many applicants approaching the end of the lengthy process for naturalization have experienced further delay on the path to U.S. citizenship, due to the pandemic's effect on the requirements for naturalization mandated by law.

Due to the pandemic, U.S. Citizenship and Immigration Services (USCIS) suspended in-person services earlier this year, including required interviews and oath ceremonies. That had meant that many applicants may miss the registration deadline to vote during this upcoming election. Some lawmakers are suggesting the oath be conducted remotely in addition to other emergency measures to progress the naturalization process. But, there are legal obstacles to doing that.

The right to vote is one of the most valuable privileges associated with American citizenship. It is a privilege not granted to foreign nationals who may be living and working in the United States, nor to lawful permanent residents (green card holders). Although members of those groups pay federal and other taxes for the privilege of living and working in the United States, under our electoral system, only citizens may vote.

Campaigns encouraging Americans to register to vote and cast their ballots are widespread, acknowledging that voter turnout is often a significant factor of the election outcome. The thousands of people naturalized

annually make up approximately 10% of the eligible voters in the country. This year, naturalization applicants, many of whom have lived in the United States for over 10 years, have experienced pandemic-related delays and hurdles that may prevent their achieving citizenship in time to be able to register to vote.

USCIS administers the naturalization process. The process requires and includes the applicant's completion of a 20-page form, providing biometrics, attending an interview with an USCIS officer, and taking the Oath of Allegiance. Due to the pandemic, from March 18, 2020, through June 4, 2020, USCIS offices were closed for in-person services including biometrics and interviews. Although operations have resumed, significant delays have resulted not both because of the backlog and due to logistical challenges associated with implementing social distancing and other pandemic-related precautions.

However, during the lockdown, different types of naturalization ceremonies took place, some more nontraditional than others. Drive-through oath admission and ceremonies held in parking lots popped up all across the country, as a temporarily accepted norm. Nevertheless and understandably, the number of applicants to whom the oath was administered has been significantly below pre-pandemic levels.

In general, ceremonies are either:

- Judicial, in which the court administers the Oath of Allegiance. This option can be selected by the applicant, although, in some situations, a particular court can have exclusive authority to administer the oath.
- Administrative, in which USCIS administers the Oath of Allegiance.

To clear the backlog, while providing a socially-distanced, safe environment, some have suggested administering the oath via video conferencing among other methods. However, current controlling legal provisions only endorse oath-taking in person.

The U.S. Code requires that the oath be taken via “public ceremony” and that the attorney general, who has the sole authority to naturalize citizens, ensure that the administration of naturalization oaths are “public, conducted frequently and at regular intervals, and are in keeping with the dignity of the occasion.” USCIS’ policy manual thus states, “An applicant must appear in person at a public ceremony unless USCIS excuses the appearance.” It also promotes the frequency of such occurrences: and applicants may even take the oath on the same day as their interview in some cases.

USCIS has stated that it is “committed to elevating the importance of the naturalization ceremony as a venue to recognize the rights, responsibilities, and importance of citizenship and provide access to services for new citizens.” In fact, voting registration documentation is part of the welcome packet provided to new citizens at USCIS naturalization ceremonies. Lawmakers promote naturalization as a unifying experience, celebrating the occasion to welcome new citizens who will share in American ideals. But, pandemic-caused delays have affected the naturalization process, which may have an effect in this election year.

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About the Authors:

Kristen T. Burke, of counsel at Greenberg Traurig, focuses her practice on corporate immigration matters, including visa petitions, I-9 compliance, and applications for submission to various U.S. governmental agencies, such as U.S. Citizenship and Immigration Services and U.S. Department of Labor.

Sarah E. Amendola, is an associate in the immigration and compliance practice in the firm's Northern Virginia office. She works on both immigrant and non-immigrant cases including EB-1, PERM, L-1, H-1B, E-2, F-1 and O-1.



Kristen Burke
burkekt@gtlaw.com



Sarah Amendola
amendolas@gtlaw.com