



**Project Citizenship**  
4 Faneuil Hall South Market  
Building  
3rd Floor, Suite 4005  
Boston, MA 02109

**HIRC**  
HARVARD IMMIGRATION AND REFUGEE  
CLINICAL PROGRAM  
6 Everett St., Suite 3103  
Cambridge, MA 02138  
hirc@law.harvard.edu  
(617) 384-8165

June 3, 2020

The Honorable F. Dennis Saylor IV  
The Honorable Rya W. Zobel  
U.S. District Court for the District of Massachusetts  
1 Courthouse Way  
Boston, Massachusetts 02210

**RE: Request to Conduct Naturalization Oath Ceremonies for Massachusetts’  
Aspiring Americans**

Dear Chief Judge Saylor and Judge Zobel:

We are writing to respectfully request that the U.S. District Court for the District of Massachusetts begin taking steps to ensure that as many Massachusetts residents as possible are able to naturalize as U.S. citizens in a way that would protect the health and safety of all involved given the COVID-19 pandemic. We propose that the Court do so in the following ways: (1) coordinate with USCIS to use videoconferencing technology to conduct remote naturalization oath ceremonies, (2) conduct as many in-person naturalization oath ceremonies as possible in accordance with the State of Massachusetts’ social distancing requirements, and/or (3) urge USCIS to waive the oath requirement and issue naturalization certificates in accordance with 8 U.S.C. § 1448.

Project Citizenship is a Boston-based nonprofit agency that provides free, high quality legal services to permanent residents to help them become U.S citizens. Project Citizenship offers free workshops, eligibility screening, application assistance, legal referrals and all materials needed to apply for U.S. citizenship. Since September 2014, Project Citizenship staff has helped 7,654 immigrants apply for citizenship across Massachusetts. The Harvard Immigration and Refugee Clinical Program (HIRC) has advocated on behalf of thousands of immigrants and refugees since its founding in 1984. HIRC engages students in the direct representation of individuals applying for immigration relief as well as strategic litigation and policy advocacy on behalf of immigrant communities in Massachusetts and beyond.

**A. Over 100,000 Aspiring Americans (About 7,000 in Massachusetts) Have Been  
Unable to Naturalize.**

Since federal courts and USCIS suspended naturalization ceremonies in March 2020, over 100,000 immigrants across the United States with approved naturalization applications have

been unable to become U.S. citizens.<sup>1</sup> In Massachusetts, estimates indicate that approximately 6,000 to 7,000 such immigrants have been unable to naturalize.<sup>2</sup> Without intervention from the Court and USCIS, these numbers will continue to rise and cause significant hardship to many eager to become U.S. citizens.

## **B. Massachusetts' Aspiring Americans Are Suffering Significant Hardships Because They Are Unable to Naturalize.**

Many of these would-be U.S. citizens need to naturalize as soon as possible to obtain important benefits conferred onto U.S. citizens, especially during the COVID-19 crisis. These benefits include the ability to obtain much-needed Supplemental Security Income (“SSI”) and unemployment benefits, to exercise their right to vote in upcoming elections, to obtain derivative citizenship for minor children and other family members, to maintain valid proof of their lawful immigration status, and to obtain the sense of security, belonging, and community that American citizenship provides.

First, the COVID-19 pandemic has caused significant financial hardship for millions across the country. Because SSI benefits only last for seven years for noncitizens, many need to naturalize as soon as possible to ensure their benefits continue and they are able to pay for rent and other living costs.<sup>3</sup> Second, because many noncitizens have expiring permanent resident cards, they require U.S. citizenship to establish valid proof of their lawful status to obtain unemployment insurance or avoid suffering adverse consequences to their employment and livelihood. Third, many individuals have minor children who will be able to derive citizenship only if the child is under 18 years old. Many of these children will continue to age out—and may never become U.S. citizens—if their parents are not naturalized as soon as possible. Similarly, many individuals require U.S. citizenship to reunify their families because they will have priority to petition for other family members, including spouses and parents, to obtain lawful permanent resident status.<sup>4</sup> Fourth, some aspiring Americans have been diagnosed with illnesses, including COVID-19, and are at a higher risk than average to die in the foreseeable future. They hope to naturalize to obtain these important benefits for themselves and their families and to feel fully “American” before they pass away.

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<sup>1</sup> See, e.g., Philip Marcelo, *Thousands wait to take US citizenship oath amid virus delays*, Associated Press (May 24, 2020), <https://apnews.com/b70243d31c9355a486be7629700ffa49>; Stuart Anderson, *Report: Trump Policies Delay Citizenship For Immigrants Before Election*, Forbes (May 14, 2020), <https://www.forbes.com/sites/stuartanderson/2020/05/14/report-trump-policies-delay-citizenship-for-immigrants-before-election/>.

<sup>2</sup> The most recent Department of Homeland Security statistics indicate that approximately 2,143 individuals in Massachusetts naturalize per month. U.S. Department of Homeland Security, Office of Immigration Statistics, *Annual Flow Report, August 2019*, [https://www.dhs.gov/sites/default/files/publications/immigration-statistics/yearbook/2018/naturalizations\\_2018.pdf](https://www.dhs.gov/sites/default/files/publications/immigration-statistics/yearbook/2018/naturalizations_2018.pdf). Similarly, to date, Project Citizenship has 161 clients with cancelled oath ceremonies that have not been rescheduled and estimates that the organization handles approximately 3 to 5 percent of naturalization applications in USCIS’s Boston Field Office.

<sup>3</sup> Social Security Administration, “Supplemental Security Income (SSI) for Non-Citizens,” <https://www.ssa.gov/pubs/EN-05-11051.pdf> (last visited May 28, 2020).

<sup>4</sup> American Immigration Council, *How the United States Immigration System Works* (Aug. 2016).

Finally, especially in this presidential election year, thousands of aspiring U.S. citizens hope to exercise their right to vote and have a say in the direction of this country's future after years (or even decades) of living in the United States. Many have already missed voter registration deadlines for primaries. Estimates suggest that, each day, 2,100 immigrants will run out of time to vote, and if oath ceremonies are suspended through late fall, as many as 441,000 individuals will be excluded from voting in the presidential election.<sup>5</sup> In Massachusetts alone, estimates suggest that 4,145 would-be U.S. citizens have already been disenfranchised, and that number will increase to 12,434 if oath ceremonies are not consistently conducted before the fall.<sup>6</sup>

### **C. USCIS's Existing Actions Are Inadequate to Ensure the Timely Naturalization of Massachusetts' Aspiring Americans.**

By regulation, naturalization ceremonies are required to “be conducted *at regular intervals as frequently as necessary to ensure timely naturalization*, but in all events at least once monthly where it is required to minimize unreasonable delays.”<sup>7</sup> Current actions taken by USCIS fail to satisfy this requirement to ensure the timely naturalization of Massachusetts residents.

For example, although federal law permits the Court and USCIS to conduct “expedited” oath ceremonies in “special circumstances,”<sup>8</sup> many immigrants are unable to avail themselves of the burdensome procedures to request an expedited oath ceremony from USCIS or the Court. To make a request to USCIS, individuals are required to submit detailed evidence in writing of their special circumstances.<sup>9</sup> For example, to date, Project Citizenship volunteer attorneys have devoted approximately 200 hours to submit such requests to USCIS for 40 individuals. The thousands of individuals unable to avail themselves of Project Citizenship's services or afford immigration attorneys will likely be unable to submit these requests. Moreover, while “requests for expedited administration of the oath of allegiance” may also “be made in writing to ... the [C]ourt,”<sup>10</sup> the Court has not indicated what procedures an individual must follow to submit such a request (i.e., should the written request be submitted to Chief Judge Saylor, the Clerk of Court, or another Court administrator?).

Finally, even though USCIS has begun scheduling some oath ceremonies at its field offices,<sup>11</sup> due to COVID-19 safety restrictions, USCIS will likely only be able to naturalize a handful of individuals at each ceremony. Given that the Court previously held large-scale oath ceremonies for hundreds of individuals, USCIS's current effort will be unable to resolve the significant backlog in a timely manner.

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<sup>5</sup> Stuart Anderson, *Report: Trump Policies Delay Citizenship For Immigrants Before Election*, Forbes (May 14, 2020), <https://www.forbes.com/sites/stuartanderson/2020/05/14/report-trump-policies-delay-citizenship-for-immigrants-before-election/>.

<sup>6</sup> Boundless, 2020 State Of New American Citizenship Report, <https://www.boundless.com/research/state-of-new-american-citizenship-report/>.

<sup>7</sup> 8 C.F.R. § 337.2(a) (emphasis added).

<sup>8</sup> See 8 U.S.C. § 1448(c); 8 C.F.R. § 337.3(c).

<sup>9</sup> 8 C.F.R. § 337.3(c).

<sup>10</sup> *Id.*

<sup>11</sup> To date, USCIS has rescheduled 125 of 286 oath ceremonies for Project Citizenship's clients.

#### **D. The Court Should Conduct Remote or In-Person Naturalization Ceremonies, Or Request that USCIS Waive the Oath Requirement.**

For these reasons, we respectfully request that the Court take at least one of the following actions to ensure as many Massachusetts residents are able to naturalize as soon as possible:

##### **1) Conduct remote naturalization oath ceremonies using videoconferencing technology.**

In response to the COVID-19 pandemic, the Office of Management and Budget has directed all federal agencies “to use the breadth of available technology capabilities to fulfill service gaps and deliver mission outcomes.”<sup>12</sup> In accordance with this directive, we respectfully request that the Court coordinate with USCIS to conduct remote naturalization oath ceremonies using videoconferencing technology, such as Zoom.

In recent weeks, there has been widespread, bipartisan support for federal courts and USCIS to begin conducting remote oath ceremonies.<sup>13</sup> And, while no federal law currently prevents oath ceremonies to be conducted remotely, a draft House of Representatives’ stimulus bill would mandate that USCIS begin this process.<sup>14</sup> Immigrant communities are also supportive of holding remote oath ceremonies to protect themselves and their loved ones from COVID-19.<sup>15</sup>

As a letter from 31 Congressmen to USCIS explains, remote oath ceremonies would also “provide long-term flexibility to the agency far beyond the duration of the pandemic. For example, remote naturalization ceremonies would allow the swearing in of special populations such as military service members deployed abroad or individuals with disabilities for whom travel to a large group ceremony location may be difficult. In the long run, virtual oath ceremonies also could save USCIS much-needed resources by lessening necessary expenditures for large-scale ceremonies for those individuals who opt to do a remote ceremony and help

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<sup>12</sup> Office of Management and Budget, Memorandum for Heads of Executive Departments and Agencies (Mar. 22, 2020), <https://www.whitehouse.gov/wp-content/uploads/2020/03/M-20-19.pdf>.

<sup>13</sup> See, e.g., Philip Marcelo, *Thousands wait to take US citizenship oath amid virus delays*, Associated Press (May 24, 2020), <https://apnews.com/b70243d31c9355a486be7629700ffa49>; Stuart Anderson, *Report: Trump Policies Delay Citizenship For Immigrants Before Election*, Forbes (May 14, 2020), <https://www.forbes.com/sites/stuartanderson/2020/05/14/report-trump-policies-delay-citizenship-for-immigrants-before-election/>; Marisa Herman, *Ex-Reagan Official Linda Chavez: Time to Resume Naturalization Ceremonies*, NewsMax (May 22, 2020), <https://www.newsmax.com/us/naturalization/2020/05/22/id/968528/>; Letter from Senator Marco Rubio et al. to USCIS (May 22, 2020), <https://www.heinrich.senate.gov/press-releases/heinrich-rubio-urge-uscis-to-ensure-eligible-immigrants-are-able-to-complete-citizenship-process->.

<sup>14</sup> Catherine Rampell, *These would-be citizens want to vote this fall. Why is the Trump administration blocking them?*, Wash. Post (May 14, 2020), [https://www.washingtonpost.com/opinions/these-would-be-citizens-want-to-vote-this-fall-why-isnt-the-us-conducting-remote-oath-ceremonies/2020/05/14/d8b27a5a-9613-11ea-91d7-cf4423d47683\\_story.html](https://www.washingtonpost.com/opinions/these-would-be-citizens-want-to-vote-this-fall-why-isnt-the-us-conducting-remote-oath-ceremonies/2020/05/14/d8b27a5a-9613-11ea-91d7-cf4423d47683_story.html).

<sup>15</sup> See, e.g., Philip Marcelo, *Thousands wait to take US citizenship oath amid virus delays*, Associated Press (May 24, 2020), <https://apnews.com/b70243d31c9355a486be7629700ffa49>; Matthew La Corte et al., *USCIS Should Hold Remote Naturalization Ceremonies During the COVID 19 Crisis* (May 1, 2020), <https://www.niskanencenter.org/uscis-should-hold-remote-naturalization-ceremonies-during-the-covid-19-crisis/>.

USCIS process its massive backlog of approved applicants for naturalization who only need to take the oath.”<sup>16</sup>

There are also no logistical or legal hurdles that would prevent the Court and USCIS from conducting remote oath ceremonies. First, multiple USCIS officers can check-in and verify the identities of naturalization applicants using videoconference technology or telephonically. Indeed, the USCIS Contact Center routinely verifies the identify of such individuals telephonically.<sup>17</sup> USCIS has also acknowledged that it has used videoconference technology to interview refugees in certain circumstances.<sup>18</sup> Second, naturalization applicants can return their Permanent Resident Cards to USCIS either through certified mail or drop them off at USCIS Field Offices, and USCIS can either provide Certificates of Naturalization to individuals through certified mail or at USCIS Field Offices. In certain circumstances, USCIS has used certified mail to both receive Permanent Resident Cards and issue proof of citizenship.

USCIS has claimed that it is not permitted to conduct remote oath ceremonies because federal regulations indicate that oath ceremonies conducted by USCIS require “in-person” attendance in a “public ceremony.”<sup>19</sup> This is incorrect for a number of reasons. First, the “in-person” requirement does not apply to oath ceremonies conducted by federal district courts.<sup>20</sup> Second, the “in-person” requirement does not require an individual’s physical presence. Individuals appearing “in-person” via videoconference should meet this requirement. Indeed, due to the COVID-19 pandemic, courts across the United States have interpreted “in-person” requirements under a broad range of laws and regulations to permit appearances via videoconference.<sup>21</sup> And, political appointees routinely receive oaths remotely.<sup>22</sup> Finally, to meet the “public ceremony” requirement, a remote oath ceremony conducted by the Court can be made available for viewing by the public on Zoom or through livestreaming technology.<sup>23</sup>

## **2) Conduct many in-person naturalization oath ceremonies while maintaining social distancing.**

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<sup>16</sup> Congresswomen Norma J. Torres et al., Virtual Naturalization Ceremonies Letter (May 5, 2020), <https://torres.house.gov/sites/torres.house.gov/files/200505%20Virtual%20Naturalization%20ceremonies%20letter%20-%20FINAL.pdf>.

<sup>17</sup> See USCIS Contact Center, <https://www.uscis.gov/contactcenter>.

<sup>18</sup> Catherine Rampell, *These would-be citizens want to vote this fall. Why is the Trump administration blocking them?*, Wash. Post (May 14, 2020), [https://www.washingtonpost.com/opinions/these-would-be-citizens-want-to-vote-this-fall-why-isnt-the-us-conducting-remote-oath-ceremonies/2020/05/14/d8b27a5a-9613-11ea-91d7-cf4423d47683\\_story.html](https://www.washingtonpost.com/opinions/these-would-be-citizens-want-to-vote-this-fall-why-isnt-the-us-conducting-remote-oath-ceremonies/2020/05/14/d8b27a5a-9613-11ea-91d7-cf4423d47683_story.html); see also HIRC, Fulfilling U.S. Commitment to Refugee Resettlement: Protecting Refugees, Preserving National Security & Building the U.S. Economy through Refugee Admissions 26, 36 (May 2017), <http://harvardimmigrationclinic.org/hirc/files/2017/06/syria-final-draft-v9.pdf>

<sup>19</sup> 8 C.F.R. § 337.2(a).

<sup>20</sup> *Id.*

<sup>21</sup> See, e.g., Supreme Judicial Court, Order Regarding Remote Depositions (May 26, 2020), <https://www.mass.gov/doc/sjc-order-regarding-remote-depositions/download> (interpreting “in person” deposition requirement under Mass. R. Civ. P. 30(g) to allow for remote depositions).

<sup>22</sup> Catherine Rampell, *These would-be citizens want to vote this fall. Why is the Trump administration blocking them?*, Wash. Post (May 14, 2020), [https://www.washingtonpost.com/opinions/these-would-be-citizens-want-to-vote-this-fall-why-isnt-the-us-conducting-remote-oath-ceremonies/2020/05/14/d8b27a5a-9613-11ea-91d7-cf4423d47683\\_story.html](https://www.washingtonpost.com/opinions/these-would-be-citizens-want-to-vote-this-fall-why-isnt-the-us-conducting-remote-oath-ceremonies/2020/05/14/d8b27a5a-9613-11ea-91d7-cf4423d47683_story.html); Philip Marcelo, *Thousands wait to take US citizenship oath amid virus delays*, Associated Press (May 24, 2020), <https://apnews.com/b70243d31e9355a486be7629700ffa49>.

<sup>23</sup> 8 U.S.C. § 1448(a).

If the Court cannot begin conducting remote oath ceremonies, then we respectfully request that the Court begin conducting as many in-person naturalization oath ceremonies as possible while maintaining social distancing in accordance with Massachusetts reopening orders. Currently, as long as employees and customers adhere to social distancing requirements (wearing masks, maintaining distances of at least six-feet apart, etc.), the state of Massachusetts has permitted gatherings greater than 10 persons.<sup>24</sup>

In accordance with similar orders, federal district courts and USCIS have begun holding in-person naturalization ceremonies. For example, the U.S. District Court for the Western District of Missouri (encompassing Kansas City) has scheduled ceremonies on June 2, 3 and 4 under social distancing requirements, including wearing facemasks, providing hand sanitizer, markings indicating where people should stand to maintain social distance, and no guests permitted.<sup>25</sup> Similarly, in Phoenix, Arizona, about 30 people a day have taken part in outdoor naturalization ceremonies.<sup>26</sup> Outdoor naturalization ceremonies have also been held in York County, Pennsylvania.<sup>27</sup>

The outdoor HarborPark of the John Joseph Moakley Courthouse would be an ideal setting for the District of Massachusetts to conduct outdoor naturalization ceremonies consistent with social distancing requirements. Without social distancing, the HarborPark can hold up to 1,600 guests,<sup>28</sup> and, therefore, could likely host an outdoor naturalization ceremony with dozens of aspiring Americans in accordance with social distancing requirements. Given their need and desire to naturalize as soon as possible, the immigrant communities that our organizations represent would be willing to travel to the Moakley Courthouse for these ceremonies.

### **3) Urge USCIS to waive the oath requirement and issue naturalization certificates.**

Finally, by statute, USCIS has the authority to “waive the taking of the oath” and “provide for immediate administrative naturalization.”<sup>29</sup> If the Court and USCIS are unable to conduct remote or in-person oath ceremonies in a timely manner, then we respectfully request that the Court urge USCIS to waive the oath ceremony for all Massachusetts residents with approved naturalization applications and issue them naturalization certificates as soon as possible. Section 1448(c) states: “If an expedited judicial oath administration ceremony is impracticable, the court shall refer such individual to the Attorney General who may provide for

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<sup>24</sup> Charles D. Baker, COVID-19 Order No. 33 (May 18, 2020), <https://www.mass.gov/doc/may-18-2020-re-opening-massachusetts-order/download>.

<sup>25</sup> USCIS Kansas City Field Office Director Michelle C. Perry, COVID-19 Supplemental Naturalization Ceremony Instructions (May 15, 2020), <https://www.uscourts.gov/sites/mow/files/CoronavirusSupplementalLetterforNatz.pdf>.

<sup>26</sup> Philip Marcelo, *Thousands wait to take US citizenship oath amid virus delays*, Associated Press (May 24, 2020), <https://apnews.com/b70243d31c9355a486be7629700ffa49>.

<sup>27</sup> See e.g., Dylan Segelbaum, *York County to Hold Small, Outdoor Naturalization Ceremony after Pause Due to Coronavirus*, YORK DAILY RECORD (May 5, 2020), <https://www.ydr.com/story/news/local/2020/05/05/york-county-to-hold-small-outdoor-naturalization-ceremony-amid-coronavirus/3081785001/>.

<sup>28</sup> See Gourmet Caterers, John Joseph Moakley United States Courthouse, <https://www.gourmetcaterers.com/venue/moakley-courthouse/>.

<sup>29</sup> 8 U.S.C. §§ 1448(a), (c).

immediate administrative naturalization.”<sup>30</sup> That provision allows a court to “consider special circumstances” when deciding to grant an expedited judicial oath ceremony.<sup>31</sup> The COVID-19 pandemic is clearly a “special circumstance” in which the Court should exercise this statutory authority, and, if it is unable to conduct judicial oath ceremonies at this time, then refer all Massachusetts residents with approved naturalization applications to USCIS to immediately grant them administrative naturalization without an oath ceremony.

For the reasons stated above, we respectfully request that the Court and USCIS take the above steps to ensure as many aspiring Americans in Massachusetts are able to naturalize as soon as possible. We would be happy to discuss these issues further. You may reach us at [sahmed@law.harvard.edu](mailto:sahmed@law.harvard.edu) and [efricker@projectcitizenship.org](mailto:efricker@projectcitizenship.org).

Sincerely,



Sameer Ahmed  
Clinical Instructor  
Harvard Immigration and Refugee Clinical Program  
Harvard Law School  
[sahmed@law.harvard.edu](mailto:sahmed@law.harvard.edu)



Erin Fricker  
Staff Attorney  
Project Citizenship  
[efricker@projectcitizenship.org](mailto:efricker@projectcitizenship.org)

CC:

USCIS District Director Denis C. Riordan ([Denis.C.Riordan@uscis.dhs.gov](mailto:Denis.C.Riordan@uscis.dhs.gov))  
USCIS Senior Official Performing the Duties of Director Kenneth Cuccinelli  
([Kenneth.T.Cuccinelli@uscis.dhs.gov](mailto:Kenneth.T.Cuccinelli@uscis.dhs.gov))

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<sup>30</sup> *Id.* § 1448(c).

<sup>31</sup> *Id.*