



CENTER FOR IMMIGRATION STUDIES

May 20, 2021

VIA EMAIL

National Records Center
FOIA/PA Office
U.S. Citizenship and Immigration Services
P.O. Box 648010
Lee's Summit, MO 64064-8010
Online Portal

Re: Freedom of Information Act Request

Dear Freedom of Information Officer:

The English and civics requirements for naturalization are found at Section 312 of the Immigration and Nationality Act. A naturalization applicant must have "an understanding of the English language, including an ability to read, write, and speak words in ordinary usage in the English language" and "knowledge and understanding of the fundamentals of the history, and of the principles and form of government, of the United States." The legacy Immigration and Naturalization Service (INS) and U.S. Citizenship and Immigration Services (USCIS) used its discretionary authority to revise the civics test in 1997 and 2008-2009 respectively.

On July 19, 2019, USCIS announced it was revising the naturalization civics test "to ensure 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."¹ The team of career professionals who led this effort actually began their work in December 2018 with the goal of creating "a meaningful, uniform, and efficient test that will assess applicants' knowledge and understanding of U.S. history, government, and values." This undertaking was consistent with the historical practice of revising the civics test every 10 years.²

However, on February 22, 2021, USCIS announced that it is scrapping the current version of the civics test that naturalization applicants must take and is reverting to the 2008-2009 version of the test.³ In that press release, the agency claimed it "determined the 2020 civics test development process, content, testing procedures, and implementation schedule may inadvertently create potential barriers to the naturalization process." The press release failed to provide any concrete examples to support discontinuing the 2020 test or define "barriers". The

¹ <https://www.uscis.gov/news/news-releases/uscis-announces-plan-to-improve-the-naturalization-test>

² See <https://cis.org/Law/Scrapping-Revised-Citizenship-Test-Baseless-Political-Move>

³ <https://www.uscis.gov/news/news-releases/uscis-reverts-to-the-2008-version-of-the-naturalization-civics-test>

agency similarly failed to provide any examples of how they reached this conclusion during a follow-up webinar on March 3, 2021.⁴

The decision to revert to the 2008-2009 test smacks of improper political influence and an arbitrary and capricious move that is based on animus towards the previous administration. The Center seeks records with the potential to shed light on this decision and its implementation.

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, the Center of Immigration Studies (the Center), hereby requests the following within twenty business days:

All email communications (including email messages, complete email chains, email attachments, calendar invitations, and calendar attachments) sent by the government officials specified below containing any of the key terms:

- Civics test;
- Naturalization civics test;
- 2008-2009 civics test;
- 2020 civics test;
- Executive Order 14012;
- Barriers to legal immigration

Government Officials:

USCIS

- Tracy Renaud;
- Felicia Escobar Carrillo;
- Ashley Tabaddor;
- Amanda Baran;
- Carrie Selby;
- Stephen McHale;
- Kathryn Anderson;
- Michael Valverde;
- Mark Phillips, division chief, Office of Policy and Strategy

DHS

- Alejandro Mayorkas;
- David Pekoske;
- David Shahoulin;
- Adam Hunter;
- Angela Kelly;

Additionally, the Center seeks all email communications (including email messages, complete email chains, email attachments, calendar invitations, and calendar attachments)

⁴ See <https://cis.org/Law/Confusion-Abounds-Regarding-Scrapped-Naturalization-Civics-Test>

and documents that identify how each of the following “inadvertently create[s] potential barriers to the naturalization process”:

- 2020 civics test development process;
- 2020 civics test content;
- 2020 civics test testing procedures;
- 2020 civics test implementation schedule

Please provide all responsive records from January 20, 2021, through the date of your search.

Additionally, please provide the following information for each Fiscal Year from Fiscal Year 2010 through Fiscal Year 2020, and to date in Fiscal Year 2021:

- Naturalization civics test pass rate for the 2008-2009 version of the test each fiscal year;
- Naturalization civics test pass rate for the 2020 version of the test;
- The number of inquiries received by the Contact Center regarding which version of the test an applicant takes between December 1, 2020 through the date of your search

If any responsive record or portion thereof is claimed to be exempt from production under the provisions of FOIA, please provide sufficient identifying information with respect to each allegedly exempt record or portion thereof to allow the Center to assess the propriety of the claimed exemption. *Vaughn v. Rosen*, 484 F. 2d 820 (D.C. Cir. 1973). In addition, any portion of a responsive record that can be reasonably segregated must be provided, after redaction of any allegedly exempt material. 5 U.S.C. § 552 (b).

For the purpose of this request, the term “record” shall mean: 1) any written, printed, or typed material of any kind, including without limitation all correspondence memoranda, notes, messages, letters, cards, facsimiles, papers, forms, telephone messages, diaries, schedules, books, reports, calendars, chronological data, minutes, charts, lists, ledgers, invoices, worksheets, receipts, returns, computer printouts, printed matter, prospectuses, statements, checks, statistics, surveys, affidavits, contracts, agreements, transcripts, magazine or newspaper articles, or press releases; 2) any electronically, magnetically, or mechanically stored material of any kind, including without limitation all electronic mail or email; 3) any audio, aural, visual, or video records, recordings, or representations of any kind; 4) any graphic materials and data compilations from which information can be obtained; and 5) any materials using other means of preserving thought or expression.

The Center also hereby requests a waiver of both search and duplication fees pursuant to 5 U.S.C. §§ 552(a)(4)(A)(ii)(II) and (a)(4)(A)(iii). The Center is entitled to a waiver of search fees under 5 U.S.C. § 552(a)(4)(A)(ii)(II) first, because, for the purposes of FOIA, it is a member of the news media. *See National Security Archive v. Department of Defense*, 880 F. 2d 1381, 1387 (D.C. Cir. 1989) (“A representative of the news media is, in essence, a person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience.”) The Center is a research institution whose mission is to provide immigration policymakers, the academic

community, news media, and concerned citizens with reliable information about the social, economic, environmental, security, and fiscal consequences of legal and illegal immigration into the United States. In service of this mission, the Center regularly obtains information about the operations and activities of government through FOIA and other means, uses its editorial skills to turn this information into distinct works, and publishes and disseminates these works to the public. It intends to do likewise with the records it receives through this request.

The Center is also entitled to a complete waiver of both search and duplication fees pursuant to 5 U.S.C. § 552(a)(4)(A)(iii). Under this provision, records “shall be furnished without any charge or at a charge reduced” if “the disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii).

The Center is a 501(c)(3), not-for-profit, educational and research organization, and, by definition, it has no commercial purpose. The Center exists to educate the public about the operations and activities of government as regards the issue of immigration, and to increase public understanding of the effect of immigration on U.S. systems. Once the Center obtains the requested records, it intends to analyze them and disseminate the results of its analysis through written reports and media interviews. It also will make the records available to other members of the media or researchers upon request. The Center has a proven ability to disseminate information obtained through FOIA to the public, as demonstrated by its longstanding and continuing public outreach efforts.

Finally, if the records are not produced within 20 business days, the Center is entitled to a complete waiver of search and duplication fees under Section 6(b) of the OPEN Government Act of 2007, which amended FOIA at 5 U.S.C. § 552(a)(4)(A)(viii).

The Center will accept and prefers documents in electronic format, and will accept the “rolling production” of documents if necessary to facilitate record production.

If you do not understand this request or any portion thereof, or if you feel you require clarification of this request or any portion thereof, please contact us at (202) 466-8185 or apt@cis.org. We look forward to receiving the requested documents and a waiver of both search and duplication costs within twenty business days. Thank you for your cooperation.

Sincerely,

Julie Axelrod
Director of Litigation for the Center for
Immigration Studies