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Immigration

USCIS Updates Guidance on Naturalization Applicants

Legal Update

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This article was prepared with the assistance of ABIL, the Alliance of Business Immigration Lawyers, of which Loan Huynh, Fredrikson Immigration Department Chair, is a member.

On November 18, 2020, U.S. Citizenship and Immigration Services (USCIS) updated policy guidance to clarify the circumstances when the agency would find applicants ineligible for naturalization because they were not lawfully admitted for permanent residence. "Applicants are ineligible for naturalization if they obtained lawful permanent residence (LPR) status in error, by fraud or otherwise not in compliance with the law," USCIS said.

The update also clarifies that USCIS reviews whether an applicant has abandoned LPR status when it adjudicates a naturalization application. If an applicant does not meet the burden of establishing maintenance of LPR status, USCIS said it generally denies the naturalization application and places the applicant in removal proceedings by issuing a Notice to Appear (NTA). The update also provides that USCIS generally denies a naturalization application "filed on or after the effective date if the applicant is in removal proceedings pursuant to a warrant of arrest."