

and furnished a copy of the designated examiner's memorandum. The notice shall be given in conjunction with notification of the date, place, and time of holding the final hearing. The notice shall be sent by certified mail, with return receipt requested, after any review made by the regional administrator.

(b) *Recommendation that petition be granted.* When the designated examiner proposes to recommend granting of the petition filed prior to October 1, 1991 and to present the facts and issues to the court, the petitioner or his or her attorney or representative shall be notified of the recommendation and furnished a copy of the designated examiner's memorandum prior to the date of the hearing, and after any review made by the regional administrator.

(c) *Disagreement between recommendations of designated examiner and the regional administrator.* In those cases reviewed by the regional administrator in which his or her views and recommendations do not agree with those of the designated examiner, the notice required by paragraphs (a) and (b) of this section shall also advise the petitioner of the recommendation of the regional administrator and that both recommendations will be presented to the court. There shall also be enclosed with such notice a copy of the regional administrator's memorandum.

(d) *Briefs.* If the petitioner intends to file a brief or memorandum at the final hearing, he or she shall furnish a copy thereof to the Service office from which the notice on Form N-425 emanated at least 5 days prior to the date of the final hearing. Failure to do so will result in a motion for a continuance if deemed essential for the proper presentation of the Government's case.

[22 FR 9822, Dec. 6, 1957, as amended at 35 FR 17530, Nov. 14, 1970; 56 FR 50498, Oct. 7, 1991]

## PART 336—HEARINGS ON DENIALS OF APPLICATIONS FOR NATURALIZATION

Sec.

336.1 Denial after section 335 examination.

336.2 Hearing before an immigration officer.

336.3-336.8 [Reserved]

336.9 Judicial review of denial determinations on applications for naturalization.

AUTHORITY: 8 U.S.C. 1103, 1443, 1447, 1448.

SOURCE: 56 FR 50499, Oct. 7, 1991, unless otherwise noted.

### § 336.1 Denial after section 335 examination.

(a) After completing all examination procedures contained in part 335 of this chapter and determining to deny an application for naturalization, the Service shall serve a written notice of denial upon an applicant for naturalization no later than 120 days after the date of the applicant's first examination on the application.

(b) A notice of denial shall be prepared in a written, narrative format, and shall recite, in clear concise language, the pertinent facts upon which the determination was based, the specific legal section or sections applicable to the finding of ineligibility, and the conclusions of law reached by the examining officer in rendering the decision. Such notice of denial shall also contain a specific statement of the applicant's right either to accept the determination of the examining officer, or request a hearing before an immigration officer.

(c) Service of the notice of denial may be made in person or by certified mail to the applicant's last known address, or upon the attorney or representative of record as provided in part 292 of this chapter.

### § 336.2 Hearing before an immigration officer.

(a) The applicant, or his or her authorized representative, may request a hearing on the denial of the applicant's application for naturalization by filing a request with the Service within thirty days after the applicant receives the notice of denial under § 336.1.

(b) Upon receipt of a timely request for a hearing, the Service shall schedule a review hearing before an immigration officer, within a reasonable period of time not to exceed 180 days from the date upon which the appeal is filed. The review shall be with an officer other than the officer who conducted the original examination under section 335 of the Act or who rendered the Service determination upon which the hearing is based, and who is classified at a grade level equal to or higher