

June 28, 2022

The Honorable Joseph R. Biden, Jr.
President of the United States
The White House
1600 Pennsylvania Avenue
Washington, DC 20500

**Re: Department of Defense Obstacles to the Expedited Naturalization of
Service Members in the U.S. Military**



Dear Mr. President:

We write to express our concerns about Department of Defense practices that continue to frustrate the expedited naturalization of immigrants currently serving in the U.S. military. We ask for your assistance to ensure the Defense Department undertakes swift action to make naturalization accessible to all those serving our nation.

From the War of 1812 to the present, federal laws have reflected Congress's intent that immigrants serving during wartime naturalize almost immediately upon entering service and prior to deployment.¹ Since 1952, that promise has been codified in the Immigration and Nationality Act. The legislative history makes the reason for this intent clear: "if they are invited to fight and die for the United States, . . . they are good enough to come into citizenship."² Expedited naturalization allows service members to enjoy the privileges of citizenship while serving this country, including exercising the right to vote and to travel with a U.S. passport, especially while deployed abroad.

Before service members can apply for citizenship, the Defense Department must first certify their honorable service, a purely administrative task, consisting of looking up an individual's service record and verifying honorable service to date. The Defense Department's longstanding practice was to issue certifications to recruits once they arrived at basic training so they could become U.S. citizens by graduation and prior to deployment, just as Congress intended.³

¹ See Am. Compl. ¶¶49-63, *Samma v. Dep't of Def.*, No. 20-1104 (D.D.C. June 8, 2020), ECF No. 24, available at <https://www.aclu.org/legal-document/samma-v-us-department-defense-amended-complaint>.

² *Naturalization of Aliens Serving in the Armed Forces of the U.S.: Hearing on H.R. 6073, H.R. 6416, and H.R. 6439 before the H. Comm. on Immigration and Naturalization, 77th Cong.* 13 (1942).

³ See *Samma v. Dep't of Def.*, No. 20-1104, 2020 WL 5016893, at *5 (D.D.C. Aug. 25, 2020), available at <https://www.aclu.org/legal-document/samma-v-us-department-defense-memorandum-opinion-regarding-plaintiffs-motion-summary>.



In October 2017, the Trump administration instituted a new policy, designed to thwart immigrant service members from naturalizing expeditiously. The Trump policy required the Defense Department to withhold certifications until service members satisfied new preconditions, including a minimum service duration requirement. As a result, the Defense Department denied thousands of immigrants in uniform the path to citizenship promised to them under federal law. Statistics show that in the year following the 2017 policy’s implementation, military naturalization applications dropped 72 percent from pre-policy levels.⁴

In August 2020, in response to a lawsuit filed by the ACLU on behalf of a class of thousands of immigrants serving in the military, the District Court for the District of Columbia vacated the Trump policy and enjoined the Defense Department from imposing its requirements on immigrant service members.⁵ Nonetheless, for months following the Court’s order, military officials refused to comply.⁶

In the period since you took office, service members have continued to report significant difficulties obtaining their certifications of honorable service and therefore in applying for naturalization. The signatories to this letter have sought on two occasions to meet with Gil Cisneros, Under Secretary of Defense for Personnel and Readiness, to discuss their concerns about continued impediments to service member naturalizations. On both occasions, they were told that Mr. Cisneros would not meet with us.

Perhaps most tellingly, the Defense Department has not actually rescinded the Trump policy. Rather, the policy remains under review, and during the pendency of that review, your administration has not dropped its appeal of the district court’s order vacating the policy.

Your administration has made great strides to address the needs of immigrant veterans through the Immigrant Military Members and Veterans Initiative (“IMMVI”), a partnership between the Department of Homeland Security and the U.S. Department of Veterans Affairs. But we have seen no corresponding effort by the Defense Department.

Your administration’s failure to act on behalf of immigrant service members is particularly disappointing in light of your campaign promise to

⁴ Immigration Enforcement Actions Needed to Better Handle, Identify, and Track Cases Involving Veterans, United States Government Accountability Office (June 2019), available at <https://www.gao.gov/assets/700/699549.pdf>.

⁵ *Samma v. Dep’t of Def.*, No. 20-1104, 2020 WL 5016893, at *5 (D.D.C. Aug. 25, 2020), available at <https://www.aclu.org/legal-document/samma-v-us-department-defense-memorandum-opinion-regarding-plaintiffs-motion-summary>.

⁶ See Pls.’ Mot. to Enforce Aug. 2020 Court Order, *Samma v. Dep’t of Def.*, No. 20-1104 (D.D.C. Aug. 17, 2021), ECF No. 58, available at <https://www.aclu.org/legal-document/samma-v-us-department-defense-plaintiffs-motion-enforce-august-2020-court-order>.

“[p]rotect and expand opportunities” for immigrants “who risked their lives in military service” and to “restore faith in the citizenship process by removing roadblocks to naturalization.”⁷ We have yet to see anything emerge from your February 2, 2021 executive order instructing the secretary of state, attorney general, and secretary of homeland security to “develop a plan” within 60 days to “facilitate naturalization for . . . members of the military.”⁸

We ask for your intervention to address this critically important issue, including by instructing the Defense Department (and where necessary, U.S. Citizenship and Immigration Services) to take the following steps:

- (1) Rescind the 2017 Trump policy and withdraw appeal of the district court’s order in *Samma v. Dep’t of Def.*, No. 20-1104, 2020 WL 5016893 (D.D.C. Aug. 25, 2020).
- (2) Provide a fact sheet to all non-citizen service members upon enlistment explaining their entitlement to expedited naturalization and how to seek U.S. citizenship based on their military service, including by requesting a certification of honorable service.
- (3) Establish points of contact within each military branch to assist service members in obtaining a certification of honorable service and applying for naturalization.
- (4) Re-establish the Naturalization at Basic Training Initiative at all basic training installations.⁹
- (5) Re-open USCIS overseas offices and ensure naturalization interviews and ceremonies can take place at overseas military bases.

For centuries, our nation has honored the immigrants who bravely serve in our Armed Forces with the privilege of expedited citizenship. Over the last five years, the Defense Department has sought to rollback this time-honored tradition. It is unconscionable that our military continues to recruit and utilize the valuable service of our immigrant service members, including in dangerous overseas deployments, while simultaneously frustrating their ability to obtain the citizenship to which they are legally entitled.

⁷ The Biden Plan for Securing Our Values as a Nation of Immigrants, <https://joebiden.com/immigration/>.

⁸ Exec. Order No. 14012, 86 Fed. Reg. 8,277 (Feb. 2, 2021).

⁹ USCIS should undertake additional measures in connection with re-establishing the Naturalization at Basic Training Initiative to ensure that service member applications are completely adjudicated and recruits are sworn in as U.S. citizens by the time they complete basic training and before they deploy, such as by appointing and training individuals specifically responsible for adjudicating military naturalization applications.



We urge you to prioritize this issue and to work with the Defense Department to urgently improve service member access to military naturalization. The White House's intervention is necessary at this point to set the Defense Department on the correct course. Please let us know if we can provide additional information.

Sincerely,

Jennie Pasquarella
Director, Immigrants' Rights / Senior Staff Attorney
ACLU of Southern California

Scarlet Kim
Senior Staff Attorney, National Security Project
ACLU

Margaret D. Stock, Lt. Col (ret.), U.S. Army
Attorney
Cascadia Cross Border Law Group

Dwight Stirling
Chief Executive Officer
Center for Law and Military Policy

Don Lyster
Vice President & Chief Operating Officer
National Immigration Forum

