

This Model Law was produced in 2020 by the Immigrant Legal Resource Center for the New Americans Campaign. It is designed to help lawmakers, policymakers, and advocates at the state and local levels who wish to create or strengthen laws to provide access to immigration legal services including naturalization.

Model Law Providing Funding for Naturalization Services

Chapter [Number]. [Services to Noncitizens/Services to Lawful Permanent Residents]

§ [Section Number/1.1]. Legislative Intent

(a) Definitions. For the purposes of this chapter, the following terms shall have the following meanings:¹

(1) “New American” and “immigrant” shall refer to non-citizen residents of [name of State] state whose country of origin is other than the United States.²

(2) “Organization” shall refer to a nonprofit organization as defined in [§1.5(a)(1)/corresponding subdivision] below.

(3) “Contractor” shall refer an organization with whom the department has contracted to provide one or more type(s) of services described in [§1.2(b)/corresponding subdivision].

(b) Legislative intent. The legislature hereby finds and declares that, according to the [year] census, approximately [number] percent of residents in [name of State] were not born in the United States. For years, immigrants have come to the United States to make a better life for themselves. It is of utmost importance to the state that these new Americans be given the tools to assist them in making a better life for themselves, particularly through programs that help develop and leverage their skills and strengthen their connections with their communities and through programs to support vulnerable immigrant populations.³

(c) The state shall be immune from any liability resulting from the implementation of this chapter.⁴

§ [Section Number/1.X]. Office for new Americans; director^{5,6}

(a) There is hereby created within the [name of department responsible for providing grants to nonprofit organizations] the office for new Americans. The [title of head of the department] shall appoint a director of the office to accomplish the responsibilities set forth in this chapter. Such

¹ Cal. Welf. & Inst. Code § 13303

² This section is mostly adopted from New York state law (N.Y. Exec. Law § 94-b).

³ This section is mostly adopted from New York state law.

⁴ Cal. Welf. & Inst. Code § 13302(d)

⁵ This section in italics because it is optional. A state should adopt it if it wishes to create an Office for New Americans within a department to administer services to noncitizens and carry out the various department responsibilities laid out in this chapter. If a state prefers to just have the department itself carry out those responsibilities and administer services to noncitizens, then it does not have to adopt this section.

⁶ This section is mostly adopted from New York state law.

director shall receive an annual salary within amounts appropriated and shall serve at the pleasure of the [title of head of the department].

(b) Organization of the office for new Americans. The [title of head of the department] shall have the power to establish, consolidate, reorganize, or abolish any organizational units within the office as he or she determines to be necessary for efficient operation thereof. The [title of head of the department] shall assign functions to any such unit and may appoint staff, agents, and consultants, prescribe their duties, and fix their compensation within amounts appropriated.

(c) Powers and duties of the office for new Americans. The office for new Americans shall have the power and responsibility to:⁷

(1) Assist immigrants in matters relating to the naturalization process;

(2) Strengthen the connections between immigrants and their communities through civic engagement;⁸

(3) Promote naturalization and foster public education and awareness;⁹

(4) Conduct outreach activities targeted to individuals eligible to apply for naturalization, including a notice of their potential eligibility to apply, information about the requirements and benefits of naturalization, and referrals;

(5) Ensure that individuals referred by the office are directed to appropriate contractors;

(6) Advise [department; governor; legislature] concerning matters affecting immigrants in the state in order to promote and encourage the full participation of immigrants in the state's civic and economic life;

(7) Coordinate with other state agencies and otherwise marshal the resources of the state to serve the needs of immigrants;

⁷ The Legislature may also give the office the power and responsibility to: (1) Establish a toll-free multi-lingual hotline and a website for purposes including, but not limited to, dissemination of information about the programs and services offered by contractors, referral for services, and receipt of complaints relating to fraud and other related crimes against immigrants; (2) Increase access to English-for-speakers-of-other-languages (ESOL) training, including by engaging not-for-profit organizations and other qualified providers of ESOL training services; (3) Connect immigrants to business resources that harness their skills, employment referral programs, and other workforce development programs; (4) Develop and leverage the skills of immigrants to benefit their communities and the state; and (5) Use information developed by the office through the hotline, assist law enforcement in combatting crimes against immigrants. These responsibilities are codified in N.Y. Exec. Law § 94-b, available at <https://www.nysenate.gov/legislation/laws/EXC/94-B>.

⁸ The Legislature may add a provision, if it does not already exist in state law, permitting lawful permanent residents to serve as poll workers to “provide for a greater awareness of the elections process, the rights and responsibilities of voters, and the importance of participating in the electoral process.” See Cal. Elec. Code § 12302, available at https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=ELEC§ionNum=12302.

⁹ Powers of the office may include recognizing new Americans and celebrating their achievements publicly; creating Public Service Announcements to promote naturalization; and using such other media as determined to be appropriate.

(8) Coordinate with other state agencies and contractors to ensure immigrants are aware of the laws that target immigration services fraud, including notario fraud, and the procedures for reporting violations;¹⁰ and

(9) Encourage and assist local governments in the development of activities to enhance civic engagement among immigrants and in immigrant communities.

§ [Section Number/1.2]. Contracts with Organizations; Types of Services

(a) Subject to the availability of funding in the annual Budget Act, the [name of department responsible for providing grants to nonprofit organizations] shall [annually] set aside a portion of its general funds for services to noncitizens. The department shall draw from these set-aside funds to provide grants to organizations that offer naturalization assistance to lawful permanent residents who are eligible to become citizens.¹¹

(b) The [department/office] shall conduct a competitive process to contract with organizations to provide this assistance, which shall include, but is not limited to:

(1) [Legal] services to assist with the naturalization process and any appeals arising from the process. These services include, but are not limited to, application processing and completion, legal screening, document review, legal counseling, Freedom of Information Act requests, waiver requests, and interview preparation.

(2) Education and outreach to immigrant communities.

(A) “Education and outreach” activities means the dissemination of information or activities that promote the benefits of citizenship, and explain eligibility to prospective United States citizens, or explain to individuals their immigration-related rights.

(B) Education and outreach activities shall include, but not be limited to, presentations on the naturalization process, [ESOL (English for Speakers of Other Languages)],¹² civics classes, curriculum design, and referrals to educational or legal services that support lawful permanent residents’ eligibility for citizenship and promote the importance of participating in civic engagement as a naturalized citizen.

¹⁰ Examples of comprehensive statutory schemes regulating the practice of immigration law can be found in California (*See* Cal. Bus. & Prof. Code § 22440 *et seq.*) and New York (*See* N.Y. Gen. Bus. Law §§ 460-A to 460-K). For further background, *see* American University and the Catholic Legal Immigration Network, Inc., *Stopping Immigration Services Scams: A Tool for Advocates and Lawmakers* (2017), available at <https://cliniclegal.org/resources/protecting-your-community/unauthorized-practice-immigration-law/stopping-immigration> (last visited Oct. 2020).

¹¹ Based on language from Cal. Welf. & Inst. Code § 13303(b) and Laws of 2008, Chapter 329, Section 125(63) from Washington, available at <http://leg.wa.gov/codereviser/documents/sessionlaw/2008pam2.pdf>

¹² Some states such as New York and Massachusetts specifically provide that funds can go toward ESOL classes. Due to the cost of designing and holding ESOL classes, some jurisdictions may decide to limit the amount of funding allocated to ESOL classes by adding limiting language, such as: “(D) No more than [percent] of the grant funds set aside in accordance with subsection (a) shall be advanced to ESOL classes and ESOL curriculum design.”

(C) Education and outreach activities do not include representation as legal counsel that would assist in the application process for a prospective citizen.¹³

(3) Legal training and technical assistance. These include, but are not limited to, educational and capacity building activities that will augment the competent provision of legal services to immigrants, including for organizations located in and serving underserved communities.

The department may retain up to [five percent] of the funds provided in accordance with subsection (a) to administer the competitive process and the contracts.¹⁴

(c) No more than [40 percent] of the grant funds set aside in accordance with subsection (a) shall be advanced to any one organization.¹⁵

§ [Section Number/1.3]. Priority of Service to Low-Income Immigrants

(a) Contractors, when providing services described in [§1.2(b)(1) and (b)(2)/corresponding subdivisions], shall give priority for services to:

(1) Lawful permanent residents who currently receive state-funded benefits which could be replaced in whole or in part by federally-funded benefits if those persons become citizens;¹⁶ or

(2) Lawful permanent residents who would qualify for state- or federally-funded benefits but for their status as noncitizens.

(b) The department shall instruct benefits administering agencies to make an affirmative effort to identify and proactively contact lawful permanent residents receiving public benefit to refer them to contractors.¹⁷

(1) The department may retain up to [10 percent] of the funds provided in accordance with [§1.2(a)/corresponding subdivision] to carry out the tasks described in subdivision (b).

§ [Section Number/1.4]. Performance Measures and Updates to Legislature

(a) The department and the contractor(s) shall develop performance measures for the program described in [§1.2/corresponding section], and within sixty days of the close of each fiscal year for which state funding is provided, shall report to the governor and the legislature on the outcome of the program and the performance measures.¹⁸

¹³ Paragraph 2, specifically, is mostly adopted from Cal. Welf. & Inst. Code § 13305.

¹⁴ Subdivision (b) used language from Cal. Welf. & Inst. Code § 13303(b), § 13305, and Laws of 2008, Chapter 329, Section 125(63) from Washington, available at <http://leg.wa.gov/codereviser/documents/sessionlaw/2008pam2.pdf>

¹⁵ Cal. Welf. & Inst. Code § 13303(d).

¹⁶ Language from Massachusetts: http://www.mass.gov/bb/gaa/fy2017/app_17/dpt_17/hlori.htm.

¹⁷ For examples of specific statutory language, see Wash. Rev. Code Ann. § 74.08A.130, available at <https://app.leg.wa.gov/rcw/default.aspx?cite=74.08A.130>.

¹⁸ See language from Session Laws of the State of Washington (2008) at 1839: <http://leg.wa.gov/codereviser/documents/sessionlaw/2008pam2.pdf>.

(b) The department shall update the legislature on the following information in the course of budget hearings:¹⁹

- (1) The timeline for implementation and administration of this chapter, including important upcoming dates.
- (2) The participating organizations awarded contracts or grants, and the aggregate amounts requested for each type of service described in [§1.2(b)/corresponding subdivision].
- (3) The number of applications for funding submitted by organizations, and the aggregate amounts requested for each type of service described in [§1.2(b)/corresponding subdivision].
- (4) The number of lawful permanent residents who received naturalization services, as described in [§1.2(b)(1)/corresponding subparagraph].
- (5) The number of persons who received the types of assistance described in [§1.2(b)(2) and (b)(3)/corresponding subparagraphs].
- (6) The types of services provided and in what language or languages.
- (7) The regions served.
- (8) Demographic characteristics, including, but not limited to, country of origin, of:
 - (A) Lawful permanent residents described in paragraph (4) and
 - (B) Persons who received the type of assistance described in [§1.2(b)(2)/corresponding subparagraph].
- (9) The identification of further barriers and challenges to the provision of services described in [§1.2(b)/corresponding subdivision].

§ [Section Number/1.5]. Grant Requirements²⁰

- (a) Grants awarded pursuant to [§ 1.2/corresponding section] shall fulfill all of the following:
- (1) Be executed only with nonprofit organizations²¹ that meet the requirements set forth in Section 501(c)(3) or 501(c)(5) of the Internal Revenue Code²² and that meet all of the following requirements:
 - (A) Except as provided in subparagraphs (C) or (D), have at least three years of experience providing the type(s) of services for which the organization is requesting a grant.

¹⁹ Mostly based on Cal. Welf. & Inst. Code § 13303(e).

²⁰ Most of this section is based on Cal. Welf. & Inst. Code § 13304.

²¹ The Legislature may also decide to make grants available to local government entities within the state that engage in naturalization promotion and assistance (such as libraries. Optional statutory language would specify that grants awarded may be executed with “units of local government that provides authorized direct legal assistance to immigrants” and that meet the requirements of subparagraphs (A) and (B).

²² Internal Revenue Code sections are in Title 26 of the U.S.C.

(B) Organization that provide legal services as defined in paragraph (b)(1) of Section [1.2/corresponding section] must be recognized and accredited by the Office of Legal Access Programs under the United States Department of Justice's Executive Office for Immigration Review or meet the [state requirement for legal services organizations].²³

(C) Nonprofit organizations providing services in regions of the state where there is no organization that meets the requirement of having least three years of experience as specified in subparagraph (A), may receive a seed grant if they

(i) Meet the requirements of subparagraph (B); and

(ii) Have at least one year of experience providing services to the population that the organization would serve under the requested grant.

(D) Legal services organization that provides legal training and technical assistance as defined in paragraph (b)(3) of Section [1.2/corresponding section] must

(i) Have at least 10 years of experience conducting immigration legal services and technical assistance; and

(ii) Have conducted trainings on naturalization issues for persons beyond their staff.

(2) Require reporting, monitoring, or audits of services provided, as determined by the department.

(3) Require grant recipients to maintain adequate legal malpractice insurance and to indemnify and hold the state harmless from any claims that arise from the legal services provided pursuant to this chapter.

§ [Section Number/1.6]. Naturalization Fee Tax Credit

(a) A resident of the State who files a state income tax return and is not a dependent of another taxpayer may claim a credit for the cost of the fee for filing the naturalization application (Form N-400), or application for a certificate of citizenship (Form N-600 and N-600K), including the biometrics fee if applicable, where such fees are incurred to obtain the taxpayer's or taxpayer's dependent's naturalization, or confirmation of the taxpayer's or taxpayer's dependent's U.S. citizenship.

(1) The amount of the credit shall be equal to the total amount paid by the taxpayer and dependents to the United States Citizenship and Immigration Services (USCIS) for the fee for filing the naturalization application (Form N-400), or application for a certificate of citizenship (Form N-600 and N-600K), including the biometrics fee if applicable, during the taxable year for which the credit is claimed, up to a maximum of 100 percent of the taxpayer's tax liability.

²³ Based on Cal. Welf. & Inst. Code § 13304(a)(1), which refers to programs that “meet the requirements to receive funding from the Trust Fund Program administered by the State Bar of California.”

(2) No taxpayer may claim a tax deduction against the taxpayer's state tax liability for naturalization or citizenship fees for which the taxpayer claims this credit.

§ [Section Number/1.X]. Credit for Employer Provided Adult English Literacy Programs²⁴

(a) An employer that provides an adult English literacy program to its employees who are English language learners and prospective United States citizens may claim a tax credit for qualified education program expenses.

(1) Qualified education program expenses are expenses paid or incurred by an employer to make available qualified education to employees of the employer.

(2) The credit determined under this section with respect to any employer for the taxable year is an amount equal to 20 percent of qualified education program expenses, or no more than \$1,000 per full-time employee participating in the qualified education program.

(A) No employer claiming a credit under this section may claim a deduction or credit under any other provision pertaining to the employer's state tax liability for any amount taken into account in determining the credit under this section.

§ [Section Number/1.7]. Severability²⁵

The provisions of this chapter are severable. If any provision of this chapter or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

MODEL LAW TEXT ENDS HERE

²⁴ This section in italics because it is optional. A state that adopts a tax credit for employer provided ESOL will need to include statutory definitions for English language learners, full-time employees, and qualified education programs.

²⁵ This section is based on Cal. Welf. & Inst. Code § 13308.