



Published on *US Immigration Lawyer, Law Offices of Rajiv S. Khanna, PC, Rajiv S. Khanna* (<https://immigration.com>)

Citizenship and Naturalization

Citizenship and Naturalization [1]

Submitted by Chief Editor on Aug 11th 2020

What is Naturalization

Naturalization is the process by which USCIS confers U.S. Citizenship upon a foreign citizen who has fulfilled certain requirements.

Benefits of Becoming a US Citizen

There are many benefits to becoming a US Citizen. The below list does not include all the benefits of citizenship, only some of the more important ones:

- Voting: Only U.S. citizens can vote in Federal elections. Most states also restrict the right to vote, in most elections, to U.S. Citizens
- Bringing family members to the United States: Citizens generally get priority when petitioning to bring family members permanently to this country.
- Obtaining citizenship for children born abroad: In most cases, a child born abroad to a U.S. Citizen is automatically a U.S. Citizen
- Traveling with a U.S. passport: A U.S. passport allows you to get assistance from the U.S. government when overseas
- Becoming eligible for Federal jobs: Most jobs with government agencies require U.S. citizenship.
- Becoming an elected official: Many elected offices in this country require U.S. citizenship.
- Showing your patriotism: In addition, becoming a U.S. citizen is a way to demonstrate your commitment to your new country

Applying for Naturalization and After

An application for naturalization is made on Form N-400 once the above requirements have been met. The application must be filed with USCIS, to the service center having jurisdiction over the applicant's place of residence. USCIS will make the final determination after reviewing the supporting documents and completing the interview, including the English language and Government & History tests. In addition to Form N-400, the application must also consist of a copy of the applicant's permanent resident card, passport-style photographs of the applicant, supporting documentation and the applicable fees.

After filing, the applicant will next receive notification of an appointment to appear at an application support center (ASC) for fingerprinting. The USCIS will then submit the fingerprints to the FBI for background and name checks. An officer at the service center to which the application was filed will review to ensure the appropriate documentation is present. If additional documentation is needed, the officer will forward a letter requesting the specific document in question that must be provided.

Next, the applicant will receive notification of an appointment to appear for an interview with a USCIS officer. It is at this interview that the applicant will be tested on their knowledge of the English Language, United States Government and History mentioned above. If the officer is satisfied as to the applicant's fulfillment of the requirements, they will approve the application. The applicant will then attend an oath ceremony conducted by the USCIS and receive a certificate of naturalization at the ceremony's conclusion.

After completing the Oath of Allegiance, the applicant is then considered a U.S. Citizen and can file a request for a U.S. Passport.

Who May File for Naturalization using Form N-400

To use Form N-400, the applicant must be ONE of the following:

1. A Lawful Permanent Resident for at least five years and at least 18 years old;
2. A Lawful Permanent Resident for at least three years and at least 18 years old,
 - a. AND the applicant has been married to and living with the same U.S. citizen for the last three years,
 - b. AND the applicant's spouse has been a U.S. citizen for the last three years.
3. A member of one of several other groups eligible to apply for naturalization (for example, persons who are nationals but not citizens of the United States) and at least 18 year old.
4. A person who has served honorably in the U.S. Armed Forces,
 - a. AND If the applicant is at least 18 years old, a Lawful Permanent Resident with at least one year of U.S. Armed Forces service, and the applicant is filing his or her application for naturalization while still in the service or within six months after the termination of such service.
 - b. OR the applicant served honorably as a member of the Selected Reserve of the Ready Reserve or in active-duty status during a designated period of hostilities. The applicant then may apply for naturalization without having been physically present in the United States for any specified period.

NOTE: If the applicant is married to a U.S. citizen who is employed or deployed abroad, he or she may in some circumstances be eligible for expedited naturalization under section 319(b) of the Immigration and Nationality Act (INA).

NOTE: When filing the N-400, an applicant can request a court to allow a change in their name when the applicant is being naturalized. This name change will become effective and final after the applicant has appeared before a court and taken the Oath of Allegiance at a Naturalization Ceremony.

Attachment to the Constitution

Applicants must show that they are attached to the principles of the Constitution of the United States. During the Oath of Allegiance, each applicant will promise to:

- Support the Constitution and obey the laws of the United States;
- Renounce any foreign allegiance and/or foreign title; and
- Bear arms for the Armed Forces of the U.S. or perform services for the government of the U.S. when required.

Knowledge of the English Language

Applicants must be able to demonstrate to a USCIS officer that they have the ability to read, write, speak and understand the English language in ordinary usage. [Click here](#) [2] for more information on the English language test, including videos, publications, and practice tests.

Applicants exempt from this requirement are those who, on the date of filing:

- Have been residing in the United States as a lawful permanent resident for periods totaling 15 years or more and are over the age of 55;
- Have been residing in the United States as a lawful permanent resident for periods totaling 20 years or more and are over the age of 50; or
- Have a medically determinable physical or mental impairment, where the impairment affects the applicant's ability to learn English.

Knowledge of United States Government and History

During the interview with the USCIS Officer, applicants must demonstrate their knowledge and understanding of the fundamentals of the history, principles and form of government of the United States. [Click here](#) [2] for more information on this portion of the test, including study materials.

Good Moral Character

Applicants must be able to show good moral character for the duration of the Residence requirement. However, USCIS may request evidence of good moral character from prior to the Residence requirement. Applicants must disclose all relevant facts to USCIS, including their entire criminal history, regardless of whether or not the information disqualifies them from the naturalization process.

Here is a good summary of the law from a recent court case, *Mukarram v. Collett*, 649 F.Supp.2d 418 (USDC, Maryland, 2009), pp. 420-421:

An applicant for naturalization "bear[s] the burden of establishing by a preponderance of the evidence that he or she meets all of the requirements of naturalization." 8 C.F.R. § 316.2(b). Under 8 U.S.C. § 1427(a), an applicant for naturalization must meet the following requirements [n]o person ... shall be naturalized unless such applicant, (1) immediately preceding the date of filing his application for naturalization has resided continuously, after being lawfully admitted for permanent residence, within the United States for at least five years ..., (2) has resided continuously within the United States from the date of the application up to the time of admission to citizenship, and (3) during all the periods referred to in this subsection has been and still is a person of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the United States.

Certain classes of individuals are barred from establishing the good moral character requirement of § 1427(a). *Id.* at § 1101(f), 8 C.F.R. § 316.10(b)(1)-(2). Additionally, "[t]he fact that any person is not within any of the [enumerated classes] shall not preclude a finding that for other reasons [he] is or was not of good moral character." 8 U.S.C. § 1101(f). An applicant's moral character is evaluated "on a case-by-case basis taking into account . . . the standards of the average citizen in the community of residence." 8 C.F.R. § 316.10(a)(2).

The statutory period for assessing the moral character of a naturalization applicant begins five years immediately preceding the date the application is filed. 8 U.S.C. § 1427(a). But 8 U.S.C. § 1427(e) provides that "the applicant's conduct and acts at any time prior to that period" may be considered "[i]n determining whether the applicant has sustained the burden of establishing good moral character." More specifically, an applicant's "conduct and acts" prior to the statutory period may be considered for purposes of the moral character determination "if the conduct of the applicant during the statutory period does not reflect that there has been reform of character from an earlier period or if the earlier conduct and acts appear relevant to a determination of the applicant's present moral character." 8 C.F.R. § 316.10(a)(2). Therefore, an applicant's conduct prior to the statutory period is relevant only to the extent that it reflects on his or her moral character within the statutory period.

According to the Code of Federal Regulations (8 CFR § 316.10), an applicant is permanently barred from naturalization if he or she has been convicted of murder or certain aggravated felonies. In addition, an applicant cannot be found to be a person of good moral character if during the last five years he or she was convicted of:

- 1) a crime of moral turpitude (lying, cheating, stealing);
- 2) crimes for which the sentences totaled five years or more;
- 3) a drug offense, except simple possession of marijuana; or
- 4) two or more gambling offenses.

In addition, an applicant cannot be found to be of good character if he or she:

- 1) has been confined to a penal institution during the statutory period, as a result of a conviction, for an aggregate period of 180 days or more;
- 2) is or has earned his or her principal income from illegal gambling;
- 3) is or has been involved in prostitution or commercialized vice;
- 4) is or has been involved in smuggling illegal aliens into the United States;
- 5) is or has been a habitual drunkard;
- 6) is practicing or has practiced polygamy;
- 7) has willfully failed or refused to support dependents; or
- 8) has given false testimony, under oath, in order to receive a benefit under the Immigration and Nationality Act.

Continuous Residency versus Physical Presence

Continuous residence and physical presence are interrelated requirements, but each must be satisfied in order for the naturalization application to be successful.

Continuous Residence requires that the applicant maintain a dwelling within the United States for 5 years prior to applying for naturalization (3 years if filing as a lawful permanent resident married to a U.S. Citizen). See the section

below on preserving residence for naturalization purposes.

Physical Presence requires that the applicant be present within the United States for at least half the time required in their category to file for naturalization. The applicant must also have been residing within the same state or district for at least three months before filing. In certain situations, an applicant can file 90 days before the 5 year requirement (or 3 year requirement based on marriage) has been met.

Preserving Residence for Naturalization Purposes

Generally, applicants for naturalization must reside in the United States for five years (three years if qualifying under the citizen-spouse exemption) immediately preceding the date of filing an application for naturalization. Any naturalization applicant is required to have been physically present in the United States for at least 30 months of those five years (18 months if eligible under the citizen-spouse exemption). In certain limited situations, a person may be able to preserve residency, previously accumulated for naturalization purposes, even though he or she may be residing outside the U.S. for longer than one year. The time thus spent abroad may be counted towards the residency requirement.

Legal permanent residents (LPR) who remain outside the United States for six months or longer break the continuous residency requirement for naturalization purposes. One may keep his or her continuous residence if that person has had at least one year of unbroken continuous residence since becoming an LPR and received an approved Form N-470 before being out of the United States for up to one year. Filing a Form N-470 does not relieve an LPR from obtaining a reentry permit in advance of trips outside the United States for a year or more, nor does it relieve the applicant from the naturalization law's physical presence requirement.

An applicant qualifying for the residency preservation may extend the benefit to his or her spouse and dependent children who are all members of the same household and have lived with the principal applicant while abroad. One must have been physically present and residing in the United States for an uninterrupted period, without any absence whatsoever, for at least one year after his/her admission as a lawful permanent resident before he/she can file a Form N-470. In addition, one must submit the Form N-470 to USCIS before he/she have been absent from the United States for a continuous period of one year. The regulations are different for religious workers proceeding abroad to perform religious duties. Religious workers may apply before or after departure, or after return to the United States i.e. if religious worker absence from the United States is, was or will be solely as a clergyman or clergywoman, missionary, brother, nun or sister of a religious denomination or interdenominational mission organization having a bona fide organization within the United States, they may file this application before or after an absence of one year or more. They are not required to have lived in the United States for a specific period of time prior to filing Form N-470.

An exception to the residency requirement is also made for alien members of the U.S. armed forces. A permanent resident employee of the U.S. government abroad who has filed a Form N-470 is considered physically present in the United States during such employment abroad. He or she does not need to obtain a reentry permit.

As a naturalization applicant, one may be eligible for expeditious processing if his/her U.S. citizen spouse is employed outside the United States as a missionary, or by a U.S. corporation or as a member of the U.S. military. Note: Approval of N-470 application will be only for the employment and conditions stated. Any changes of employment must be approved by a new application. Also, approval of N-470 application will not relieve the applicant of the requirement to present a valid document for reentry into the United States. The applicant has to demonstrate that the absence from the United States is:

1. On behalf of the U.S. Government i.e. if he/she is, or will be employed by, or are under contract with the U. S. Government. This includes members of the U.S. Armed Services.
2. For the purpose of carrying on scientific research on behalf of an American institution of research.
3. For the purpose of engaging in the development of foreign trade and commerce of the United States on behalf of an American firm or corporation or a subsidiary thereof.
4. Necessary to the protection of property rights outside the United States of an American firm or corporation engaged in the development of foreign trade and commerce of the United States;
5. On behalf of a public international organization of which the United States is a member. NOTE: The employment cannot have started until after his/her admission as a permanent resident.
6. Solely because of the applicant's capacity as a clergyman or clergywoman, missionary, nun, or sister of a denomination or mission having a bona fide organization in the United States.

As evidence of the eligibility for N-470 benefit, one must submit letters or affidavits from the appropriate officer or the department or agency of the U. S. Government, American research institution, American firm or corporation, public international organization, or religious denomination or interdenominational mission organization. Depending on the circumstances why he/she is applying to preserve the residence, the letters or affidavits should include the following documentation:

1. An official communication from the appropriate office of the department or agency of the U. S. Government, or the public international organization; or
2. Affidavit or affidavits executed by the appropriate administrative official of the American institution or religious denomination or interdenominational mission for whom he/she is, were or will be employed or with whom he/she entered into a contract; or by the appropriate administrative official of the American firm or corporation, or subsidiary thereof by whom he/she is or will be employed.

When an affidavit is made with respect to employment by such firm, corporation or subsidiary, it should state:

1. The title of the official making the affidavit, the name of the firm or corporation in which he/she holds office and whether he/she has access to records of the same.
2. Whether the employing organization is an American firm or corporation engaged in the development of foreign trade and commerce of the United States, or subsidiary thereof.
3. The nature of the business conducted by the employing organization, church, religious denomination or interdenominational mission organization.
4. If it is a corporation, the name of the State under laws of which it was organized, the date of incorporation and that it is existent.
5. If it is a subsidiary (whether American or foreign) of an American firm or corporation engaged in the development of foreign trade and commerce of the United States, the affidavit should be:
 - a. Executed by an appropriate administrative official of the parent organization, and
 - b. Should state the facts of ownership and/or control of the subsidiary, and
 - c. Should state the exact percentage of stock owned by the parent organization.

6. The facts of his/her employment, including the nature of the service performed by him/her during the period or periods of absence to be considered.
7. Whether he/she will be engaged in the development of foreign trade and commerce of the United States; or whether he/she will be engaged in the development of foreign trade and commerce of the United States; or
8. His/her absence from the United States was or will be necessary for the protection of the property rights abroad of the employing firm or corporation or subsidiary during the period or periods of absence to be considered; or
9. Solely in the capacity of a regularly ordained clergyman or clergywoman, missionary, brother, nun or sister; and
10. In the case where employment is for a public international organization, the date when and place where he/she was first employed.

Reentry Permits

Any lawful permanent resident (LPR) or a conditional resident (CR) must present an admission document like special immigrant visa (obtained at consulate abroad), green card or reentry permit upon entry to the U.S. after their temporary trip abroad. In the absence of such document he/she is considered inadmissible. If the LPR or CR seeks admission to the U.S. after more than one year since her departure from the USA, the green card may not be sufficient to allow them back into the United States. To avoid such situations the LPR or CR must apply while they are physically present in the U.S.A i.e. before departure from the U.S., a re-entry permit. A re-entry permit thus allows a LPR or CR to apply for admission to the United States upon returning from abroad during the permit's validity, without having to obtain a returning resident visa from a U.S. Embassy or consulate. For more information please see our link on Reentry Permits.

The Effect of Claiming Nonresident Alien Status

After having been admitted to the United States as a permanent resident, if one claims or claimed nonresident alien status under the income tax laws, he/she may be regarded as having abandoned their residence in the United States and as having lost permanent resident status under the immigration and nationality laws. Consequently, one may be or become ineligible for naturalization or for preservation of residence.

Naturalization for Minors

Minor children, under 18 years of age, benefit from a parent obtaining US Citizenship and do not need to file their own petitions. They will automatically become U.S. Citizens once their parents become naturalized. In order to obtain proof of a minor child's naturalization, Form N-600 can be submitted for a naturalization certificate. The Certificate of Citizenship is merely a record of citizenship; it does not confer citizenship on an applicant.

Children born abroad to U.S. Citizen parents derive citizenship from their parents. An application for a child born on foreign soil to U.S. Citizen parents is made on Form N-600 if the child is within the United States or N-600K if the child is outside the U.S.

Foreign-born children who are adopted by U.S. Citizen parents acquire citizenship from their adopted parents. In these cases, adoptive parents file an N-643 instead of an N-600. However, adopted children over 18 must file an N-400.

After reviewing any of the applications mentioned here, USCIS may ask for further documentation to establish the child's citizen status, but these requests are generally only made in cases where discrepancies exist between the application and existing USCIS records. An interview is not usually needed to obtain a Certificate of Citizenship, but one may be scheduled in the event of a request for evidence.

Naturalization for Those Serving in the U.S. Military

If an applicant is a member of the U.S. Armed Forces and is interested in becoming a U.S. citizen, he or she may be eligible to apply for citizenship under special provisions provided for in the Immigration and Nationality Act (INA). Generally, service in the U.S. Armed Forces means service in one of the following branches: Army, Navy, Marine Corps, Air Force, Coast Guard, Certain Reserve components of the National Guard, or Selected Reserve of the Ready Reserve.

Recent changes in the relevant sections of the INA (Sections 328 and 329) make it easier for qualified military personnel to become U.S. citizens if they choose to file a naturalization application. U.S. Citizenship and Immigration Services (USCIS) has created a streamlined process specifically for military personnel who are serving in active-duty status or who have recently been discharged. As a member of the military there are other naturalization requirements that an applicant may be excepted from, including the required residency and physical presence in the United States. These exceptions are outlined in Sections 328 and 329 of the INA.

Spouses of U.S. Citizens Deployed Abroad

If an applicant is married to a U.S. citizen who is a member of the U.S. Armed Forces and their citizen spouse is or will be deployed abroad by the Armed Forces for one year, he or she may be eligible for expedited naturalization under section 319(b) of the INA.

Please click here for further information about [Military Personnel filing for Naturalization](#) [3].

Important Links

[USCIS US Citizenship](#)[4]

[USCIS Path to US Citizenship](#)[5]

[Form N-400, Instructions, and Document Checklist](#)[6]

[Form I-131 \(Re-Entry Permit\) and Instructions](#)[7]

[N-470 \(Preserve Resident Status\), and Instructions](#)[8]

[Commonly Asked Questions](#)[9]

[U.S. Selective Service Registration](#)[10]

Citizenship and Naturalization:
[Citizenship](#) [11]

Source URL (retrieved on 24 Nov 2020 - 13:18): <https://immigration.com/citizenship-and-naturalization>

Links:

- [1] <https://immigration.com/citizenship-and-naturalization>
- [2] <https://www.uscis.gov/citizenship/learn-about-citizenship/the-naturalization-interview-and-test>
- [3] <http://www.uscis.gov/sites/default/files/files/form/m-599.pdf>
- [4] <https://www.uscis.gov/us-citizenship>
- [5] <https://www.uscis.gov/us-citizenship/citizenship-through-naturalization/path-us-citizenship>
- [6] <https://www.uscis.gov/n-400>
- [7] <https://www.uscis.gov/i-131>
- [8] <https://www.uscis.gov/n-470>
- [9] <https://www.uscis.gov/citizenship/learn-about-citizenship/commonly-asked-questions-about-the-naturalization-process>
- [10] <https://www.sss.gov/register/>
- [11] <https://immigration.com/citizenship/citizenship-and-naturalization/citizenship>
- [12] <https://immigration.com/citizenship/citizenship-and-naturalization/naturalization>