

**OFFICE OF THE STAFF JUDGE ADVOCATE
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IMMIGRATION AND NATURALIZATION

This handout is intended as a general overview of the immigration and naturalization process and will also address how to make your spouse a U.S. citizen.

Please be aware that on 1 March 2003, the Bureau of Citizenship and Immigration Services (BCIS) has changed to U.S. Citizenship and Immigration Services. For comprehensive information on immigration and naturalization, including contact information and forms visit www.uscis.gov/.

Naturalization Overview

1. Naturalization is the process during which the U.S. confers citizenship upon a foreign citizen or national after he or she fulfills the requirements established by Congress in the Immigration and Nationality Act (INA). The general requirements for administrative naturalization include:

- a. Be at least 18 years old at the time you file Form N-400, Application for Naturalization.
- b. Be a permanent resident (have a “Green Card”) for at least 5 years.
- c. Demonstrate continuous residence in the United States for at least 5 years immediately before the date you file Form N-400.
- d. Show that you have been physically present in the United States for at least 30 months out of the 5 years immediately before the date you file Form N-400.
- e. Show that you have lived for at least 3 months in the state or USCIS district where you apply. Students may apply for naturalization either where they go to school or where their family lives (if they are still financially dependent on their parents).
- f. Be a person of good moral character.
- g. Demonstrate an attachment to the principles and ideals of the U.S. Constitution.
- h. Be able to read, write, and speak basic English.
- i. Have a basic understanding of U.S. history and government (civics).
- j. Take an oath of allegiance to the United States.

2. Regarding the good moral character requirement, an applicant is permanently barred from naturalization if he or she has ever been convicted of murder. An applicant is also permanently barred from naturalization if he or she has been convicted of an aggravated felony as defined in section 101(a)(43) of the Act on or after November 29, 1990. A person also cannot be found to be a person of good moral character if during the last five years he or she:

- a. Has committed and been convicted of one or more crimes involving moral turpitude
- b. Has committed and been convicted of 2 or more offenses for which the total sentence imposed was 5 years or more
- c. Has committed and been convicted of any controlled substance law, except for a single offense of simple possession of 30 grams or less of marijuana
- d. 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
- e. Has committed and been convicted of two or more gambling offenses
- f. Is or has earned his or her principal income from illegal gambling
- g. Is or has been involved in prostitution or commercialized vice
- h. Is or has been involved in smuggling illegal aliens into the United States
- i. Is or has been a habitual drunkard
- j. Is practicing or has practiced polygamy
- k. Has willfully failed or refused to support dependents
- l. Has given false testimony, under oath, in order to receive a benefit under the Immigration and Nationality Act.

3. An applicant must show that he or she is attached to the principles of the Constitution of the United States.

4. Applicants for naturalization must be able to read, write, speak, and understand words in ordinary usage in the English language. Applicants exempt from this requirement are those who on the date of filing:

- a. Have been residing in the U.S. subsequent to a lawful admission for permanent residence for periods totaling 15 years or more and are over 55 years of age;
- b. Have been residing in the U.S. subsequent to a lawful admission for permanent residence for periods totaling 20 years or more and are over 50 years of age; or
- c. Have a medically determinable physical or mental impairment, where the impairment affects the applicant's ability to learn English.

5. An applicant for naturalization must demonstrate a knowledge and understanding of the fundamentals of the history and of the principles and form of government of the U.S. Applicants exempt from this requirement are those who, on the date of filing, have a medically determinable physical or mental impairment, where the impairment affects the applicant's ability to learn U.S. History and Government.

Applicants who have been residing in the U.S. subsequent to a lawful admission for permanent residence for at least 20 years and are over the age of 65 will be afforded special consideration in satisfying this requirement.

6. To become a citizen, one must take the oath of allegiance. By doing so, an applicant swears to:
 - a. Support the Constitution and obey the laws of the U.S.;
 - b. Renounce any foreign allegiance and/or foreign title; and
 - c. Bear arms for the Armed Forces of the U.S. or perform services for the government of the U.S. when required.

In certain instances, where the applicant establishes that he or she is opposed to any type of service in armed forces based on religious teaching or belief, INS will permit these applicants to take a modified oath.

Overview of the Naturalization Process

1. Obtain the "Application for Naturalization" Form N-400. The application fee is \$640 (Add \$85 biometric fee for a total of \$725, where applicable). No fee is required for military applicants filing under Section 328 and 329 of the INA. Applicants 75 years of age or older are not charged a biometric fee. Fees change periodically and are correct as of printing but they can be verified by visiting USCIS website at www.uscis.gov, select **"FORMS,"** and check the appropriate fee or telephone the UCIS National Customer Service Center at 1-800-375-5283 and ask for fee information.
2. Read the USCIS booklet "A Guide to Naturalization."
3. Complete the N-400 Naturalization application--be thorough and truthful.
4. The N-400 may require additional documentation to be filed with it. Make sure you send this in—incomplete applications will not be processed and will be delayed.
5. Get two photographs taken for submission with your application. They must be in a specific format; see the application for instructions.
6. Send your application, any necessary supporting documents, and fee to the appropriate USCIS lockbox facility for processing. Keep a photocopy of the entire package for yourself. You should receive an application receipt number from USCIS – keep this, as the receipt number is how USCIS will track the progress of your application. You can check the status of your case by visiting the following URL: <https://egov.uscis.gov/cris/Dashboard/CaseStatus.do>.
7. You will eventually receive a letter from USCIS indicating where to go for fingerprinting and an interview. Make sure you go at the time appointed. Bring any additional documents requested by USCIS. If you must reschedule, let USCIS know well in advance, if you miss your interview without notifying the USCIS they may “administratively close” your case.
8. Attend interview; answer questions about your application. Take English and U.S. civics test.

9. Attend naturalization ceremony (In some places, you can choose to take the oath the same day as your interview, if not the USCIS will notify you of a ceremony date by Form N-445) to take oath of citizenship. You will return your Permanent Resident card ("green card") just before the ceremony.

10. Receive your Certificate of Naturalization. Keep this document in a safe place! It is your proof of U.S. citizenship. It is also recommended you obtain a U.S. passport at the earliest opportunity; the passport will also be proof of U.S. citizenship.

Waivers, Exceptions and Special Cases

Spouses of U.S. Citizens:

Generally, certain lawful permanent residents married to a U.S. citizen may file for naturalization after residing continuously in the United States for three years if immediately preceding the filing of the application:

- a. The applicant has been married to and living in a valid marital union with the same U.S. citizen spouse for all three years;
- b. The U.S. spouse has been a citizen for all three years and meets all physical presence and residence requirements; and
- c.. The applicant meets all other naturalization requirements.

There are also exceptions for lawful permanent residents married to U.S. citizens stationed or employed abroad. Some lawful permanent residents may not have to comply with the residence or physical presence requirements when the U.S. citizen spouse is employed by the U.S. Government (including the U.S. Armed Forces).

Derivative Citizenship for Minor Children of Naturalized Citizen

Some minor children automatically become U.S. citizens when their parent(s) naturalize. This rule applies to minor (under 18), unmarried children of persons who naturalize.

You do not need to apply to USCIS for the child's citizenship; it is automatic. However, if you want documentation from USCIS showing the child is a citizen, you may file Form N-600 to obtain a certificate of citizenship for the child.

1. Child Citizenship Act is Not Retroactive. If the child is over 18, it does not apply. Individuals who are 18 years of age or older on February 27, 2001, do not qualify for citizenship under the CCA, even if they meet all other criteria. If they wish to become U.S. citizens, they must apply for naturalization and meet eligibility requirements that currently exist for adult lawful permanent residents.

2. If Foreign-Born Child Lives Abroad, the Child Citizen Act Does Not Apply. In order for a foreign-born child living outside the U.S. to acquire citizenship, the U.S. citizen parent must still apply for naturalization on behalf of the child. The naturalization process for such a child cannot take place overseas. The child will need to be in the U.S. temporarily to complete naturalization processing and take the oath of allegiance. If the naturalization application is approved, the child must take the same oath of allegiance administered to adult naturalization applicants. If the child is too young to understand the oath, USCIS may waive the oath requirement.

3. Requirements for child naturalization:

- a. Both parents naturalize OR Surviving parent naturalizes OR Parent w/Legal custody (if divorced) naturalizes.
- b. Child must be under 18 and unmarried when parent(s) naturalized.
- c. Child was a lawful permanent resident (“green card” resident) before his/her 18th birthday.
- d. Good moral character (presumed if the child is under 14 years of age).

4. If naturalizing parent is still married to the child’s other parent (who is a non-citizen), but only one parent is naturalizing:

- a. Child must be in the legal custody of the naturalizing parent.
- b. Child must be under 18, unmarried, and must be a lawful permanent resident (“green card” resident) when parent naturalizes.

5. If child is not a lawful permanent resident (“green card” resident):

- a. Child must be under 18 and unmarried at time when parent naturalizes.
- b. Child must be in the legal custody of the naturalizing parent.
- c. The naturalizing parent must have lived in the U.S. for 5 years, at least 2 of which were after the parent’s 14th birthday.
- d. Child must be lawfully in the U.S. in a valid nonimmigrant status (B-2 visitor, F-1 Student); if the child entered the U.S. illegally, or overstayed their authorized visa period, this complicates the situation. See your Legal Assistance Attorney.

6. Foreign-born Adopted Children:

- a. Most foreign-born adopted children (adopted by U.S. citizens) automatically acquire U.S. citizenship on the date that they immigrate to the United States. Requirements are:
 - At least one adoptive parent is a U.S. citizen.
 - Child is under 18 years of age.
 - There is a full and final adoption of the child.
 - The child is admitted to the U.S. as an Immigrant.

Peacetime Naturalization for Veterans

A person who has served honorably in the U.S. Armed Forces at any time may be eligible to apply for naturalization under the Immigration and Nationality Act (INA) § 328.

An applicant for naturalization under Section 328 of the INA must:

- Be a lawful permanent resident;
- Be age 18 or older;
- At least one year of service in U.S. Armed forces;
- Honorable Discharge (if separated/retired);
- Read, write, and speak English;
- Knowledge of U.S. History;
- Good Moral Character; and,
- Presence in the U.S. (continuously resided in the United States for at least five years and have been physically present in the United States for at least 30 months out of the five years immediately preceding the date of filing the application with USCIS.)

Naturalization During Periods of Hostilities

Generally, members of the U.S. Armed Forces who serve honorably for any period of time (even 1 day) during specifically designated periods of hostilities are eligible for naturalization under Section 329 of the INA.

An applicant for naturalization under Section 329 of the INA must:

- Have served honorably in active-duty status, or as a member of the Selected Reserve of the Ready Reserve, for any amount of time during a designated period of hostilities and, if separated from the U.S. armed forces, have been separated honorably;
- Have been lawfully admitted as a permanent resident at any time after enlistment or induction, OR have been physically present in the United States or certain territories at the time of enlistment or induction (regardless of whether the applicant was admitted as a permanent resident);
- Be able to read, write, and speak basic English;
- Have knowledge of U.S. history and government (civics);
- Have been a person of good moral character during all relevant periods under the law; and,
- Have an attachment to the principles of the U.S. Constitution and be well disposed to the good order and happiness of the U.S. during all relevant periods under the law.
- There is no minimum age requirement under this section.

Designated Periods of Hostilities

April 6, 1917 - November 11, 1918
September 1, 1939 - December 1, 1946
June 25, 1950 - July 1, 1955
February 28, 1961 - October 15, 1978
August 2, 1990 - April 11, 1991
September 11, 2001 – present

RAF Lakenheath Legal Assistance App

For a copy of this pamphlet, as well as other helpful pamphlets, please go to the 48 FW Phone App, click on “J.A.G.” at the bottom, and then click on “forms and documents.”

RAF Lakenheath Legal Office Hours

Legal Assistance/Wills (**By appointment only**)

Tuesday 0900-1100 and Thursday 1300-1500

Call **0163852-3553 (226-3553)** or email 48fw.ja@us.af.mil

Powers of Attorney/Notary Service (No appointment necessary).

Monday-Wednesday & Friday 0830 – 1530; Thursday 0930-1530