

US Citizenship - Naturalization

If an individual is **not** born within the geographic territory of the 50 states of United States of America, or any of its territories such as Guam, Puerto Rico, the Northern Mariana Islands, American Samoa or the U.S. Virgin Islands, then s/he must go through the process of naturalization unless they meet one of few exceptions. Naturalization results in tremendous benefits for the individual. A US citizen can travel freely in and out of the United States without restrictions. S/he can sponsor immediate relatives, especially spouses more quickly, vote in local and national elections, become a candidate for elected office, receive full social security benefits while outside the United States, derive citizenship for minor children, receive more public benefits for which they are eligible, qualify for certain government jobs, and receive protection from deportation.

The path to naturalization can be a straight one although several potholes and obstacles exist for some applicants. Most individuals who have attained Lawful Permanent Residency (LPR) status through family or employer sponsorship are eligible for naturalization after a period of five (5) continuous years of such residency. Some may even be eligible after only three (3) years of continuous residency. The process of naturalization requires an oral and sometimes written examination administered by an Immigration Officer. It ends with an oath ceremony and the issuance of a Certificate of Naturalization. The oath requires allegiance to the United States.

The process of naturalization requires that the Lawful Permanent Resident (LPR) have continuous physical presence in the United States. A frequent traveler for instance may encounter hurdles to naturalization. The US CIS will not only deny an application for naturalization based on lack of continuous physical presence in the United States, but it may also initiate deportation proceedings or request that the applicant give back their "Green Card" and sign a notice of abandonment of domicile if it is discovered that the LPR has remained outside the United States for more than six months per year and has assumed residence/domicile in a foreign country. The only exceptions are for clergy (i.e. missionaries), active US military, and workers of US companies abroad. Those who fall into the exception MUST submit a request to preserve residency for citizenship PRIOR to departure in order to avoid the problem of a naturalization denial or deportation.

It is critical that a Lawful Permanent Resident demonstrate that s/he has been domiciled in the United States. In addition, to disclosing on the application the location of residences within the United States within the last five years, s/he must provide a list of absences from the United States and at times provide the interviewing officer a copy of his or her passport for inspection. The examining officer will count the number of days the applicant has been absent and determine whether the amount is within the permissible number of days one can travel outside the United States and still retain residency and qualify for naturalization. Generally, an applicant must have been physically within the United States one-half of the last five years prior to submission of the application. The time need not be consecutively, but can be sporadic departures.

A principal requirement of naturalization is that the applicant be able to read, write and speak English. If the applicant cannot because s/he never learned to read or write even in their native language, then the applicant is disqualified. However, if an individual has been in the United States as a Lawful Permanent Resident for at least 15 years, and has achieved the age of 55, then s/he can take the citizenship test in his or her native language. Also, if a medical

condition exists that prevents the applicant from reading, writing or speaking English, then a medical waiver exists that would allow the applicant to still attain naturalization.

Some of the more common obstacles to naturalization deal with the good moral character of the applicant. Obviously, individuals who have been arrested or convicted of a crime within the five years prior to application or have ever had a criminal legal problem will have a problem with their application, but this problem could not only result in a denial, it could result in deportation depending on the nature of the arrest or conviction. Other non-obvious issues relating to good moral character can involve non-payment of taxes (federal or state), non-payment of child support, visa or other immigration fraud, failure to register for Selective Service if required to do so, voting in an election or falsely claiming to be a US citizen, engaging in bigamy, and having affiliations or providing financial support of certain designated organizations, just to name a few.

It is critical that the applicant determine prior to filing the application whether they would trigger further US CIS inquiry or investigation because of potential problems. For instance, many men between the ages of 18 and 26 are required to register with the US government Selective Service agency. Failure to register can result in a denial of naturalization. Information on what Selective Service is, its requirements or to get proof of registration can be found at www.sss.gov or by calling (847) 688 – 6888. Also, many men who father children out of wedlock and fail to pay child support may be denied naturalization unless they comply with court ordered child support or for those who do not have a court order, have documentation proving they have paid and are currently paying child support for their children under the age of 18.

Provided that there are no obstacles to overcome in the application process, an applicant can achieve naturalization in a relatively short period of time depending on the processing time of the location where the applicant is interviewed. As mentioned before, while some applicants have to wait five years before they can apply, some other individuals such as spouses of US citizens, active military, and battered spouses and children of US citizens need only wait three (3) years. Those filing based on marriage to US citizens must demonstrate that they are still presently married to the US citizen AND living with the US citizen spouse when are interviewed. Thus, they will be asked to provide good faith marriage documents such as jointly filed tax returns, bank accounts, and routine household bills.

Most children need not go through the naturalization process if they were born abroad to US citizen parents, but the parents must have registered the child with a US Embassy shortly after birth. A child automatically becomes a citizen if one or both parents naturalize when the child is under 18 and the child is a Lawful Permanent Resident. Then this child can get proof of status by applying for a US passport or Certificate of Citizenship, which is different from a Certificate of Naturalization. Also, there are special circumstances if a child is born overseas, but the citizen parent is living with them overseas and never registered them at a US Embassy. This child must first become a Lawful Permanent Resident through sponsorship and may be able to attain citizenship through acquisition (without naturalizing) if s/he can prove that the US parent lived in the United States for a minimum of five years before the child's birth two of which was after age 14.

Attaining citizenship in the United States can be easy or hard depending on your particular circumstance. Before applying make sure that you are eligible and have no issues that could result in deportation. The application is extensive and the filing fees are high and are due to increase even further later this year; therefore, a consultation and advice from an experienced

Immigration Attorney is recommended although some individuals may feel competent and comfortable filing on their own.