



January 7, 2013

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Policy Alert

SUBJECT: Comprehensive Citizenship and Naturalization Policy Guidance

Purpose

USCIS is issuing updated and comprehensive citizenship and naturalization policy guidance in the new USCIS Policy Manual.

Background

USCIS's policy review is designed to consolidate and update agency guidance, eliminate obsolete policies, and develop consistent policies. USCIS is addressing all components of the naturalization and citizenship process through agency guidance to provide USCIS officers and external stakeholders with the most up-to-date policies and procedures.

This guidance, contained in [Volume 12 of the Policy Manual](#), replaces the naturalization and citizenship policy guidance found in Chapters 71, 72, 73, 74, 75 and 76 of the Adjudicator's Field Manual (AFM), the AFM's related appendices, and policy memoranda. Where conflicts exist, this guidance is controlling.

Policy Highlights

Highlights of this citizenship and naturalization policy guidance are as follows:

Part A: Citizenship and Naturalization Policies and Procedures

- Reaffirms that the DHS Secretary holds sole authority to naturalize persons as U.S. citizens.
- Reaffirms that USCIS is authorized to perform such acts as are necessary to properly implement the Secretary's authority and to ensure that applicants merit citizenship.
- Reaffirms USCIS's commitment to promoting awareness and understanding of citizenship.

Part B: Naturalization Examination

- Reaffirms USCIS’s commitment to ensure applicants for naturalization meet the criteria for establishing eligibility through the required investigation and examination procedures.
- Provides up-to-date USCIS guidance on all components of the naturalization examination, to include background and security checks, in-person interview, results of the examination, motions, and N-336 hearings on denials.
- Clarifies that officers administer any portion of the English and/or civics tests that an N-336 applicant previously failed. Officers provide only one opportunity to pass the failed portion of the tests at the hearing.
- Clarifies that a naturalization reexamination is to be conducted no earlier than 60 days and no later than 90 days from the initial examination.
- Provides guidance on pertinent adjudicative factors, to include withdrawals, administrative closings, lack of prosecution, holding certain cases in abeyance, and treating certain hearing requests as motions.

Part C: Accommodations

- Reaffirms USCIS’s commitment to provide applicants with disabilities an equal opportunity to successfully complete the naturalization process.
- Provides examples of the accommodations USCIS will make available to assist applicants with disabilities during the naturalization interview, testing, and Oath of Allegiance.
- Reaffirms that USCIS is authorized to accept requests for accommodations at any time during the naturalization process.
- Reaffirms that USCIS will, in most cases, provide applicants with disabilities either the specific accommodation requested or an effective alternative where appropriate.

Part D: General Naturalization Requirements

- Reaffirms USCIS’s commitment to ensure applicant’s meet the general criteria for establishing eligibility for naturalization.
- Clarifies that USCIS will follow the regulatory language allowing naturalization applicants to file “90 days” early.
- Clarifies that admission to the United States as a lawful permanent resident is not just a procedural matter but requires substantive eligibility.
- Clarifies that certain spouses and military members who are conditional residents are not required to remove their conditions prior to naturalization.
- Establishes that days of travel to and from the United States will count as days of physical presence in the United States.

- Establishes that failure by USCIS or the Selective Service System to complete registration for certain applicants will not be considered as an applicant's willful failure to register.
- Clarifies that lawful permanent residents do not abandon their LPR status solely by residing in the Commonwealth of the Northern Mariana Islands (CNMI). Also, it explains that USCIS will only count residence in the CNMI on or after November 29, 2009, as continuous residence within the United States for naturalization purposes.
- Explains the requirement of attachment to the Constitution, to include, the Oath of Allegiance, Selective Service, draft evasion, and ineligibility based on membership in certain organizations.

Part E: English and Civics Testing and Exceptions

- Reaffirms USCIS's commitment to ensure applicants for naturalization meet the criteria for establishing eligibility through the required testing.
- Provides up-to-date USCIS guidance on English and civics testing and exceptions.
- Clarifies that applicants who passed the English and civics testing at the time of legalization will not be retested at naturalization examination.
- Provides guidance on pertinent adjudicative factors, to include ensuring two attempts for tests, and criteria for disability exceptions.

Part F: Good Moral Character

- Reaffirms USCIS's commitment to ensure applicants for naturalization meet the eligibility criteria for establishing GMC for naturalization.
- Provides up-to-date USCIS guidance on the permanent and conditional bars to meeting the GMC requirement for naturalization.
- Provides guidance on pertinent adjudicative factors, to include applicable statutory period, definition of conviction, valid "admission" of crimes, and extenuating circumstances.

Part G: Spouses of U.S. Citizens

- Consolidates and provides up-to-date guidance on the naturalization provisions for spouses of U.S. citizens residing in the United States and abroad, to include conditional resident spouses who may naturalize prior to filing the petition to remove the conditions on residence.
- Clarifies that while spouses are required to live in marital union with the citizen spouse preceding the filing of the naturalization application, only a valid marriage is required from the date of filing until the time of naturalization.

- Clarifies that USCIS calculates the early 90-day filing period for spouses in the United States by counting back 90 days from the day before the applicant reaches three years as an LPR.
- Clarifies that USCIS calculates the period of qualifying employment regularly stationed abroad for citizen spouses from the time the applicant spouse properly files for naturalization.
- Clarifies that the period of good moral character for spouses of U.S. citizens employed abroad is at least three years prior to filing the application until the time of naturalization.

Part H: Children of U.S. Citizens

- Provides guidance on the historical acquisition and derivation of citizenship provisions and the Child Citizenship Act amendments.
- Provides up-to-date USCIS guidance on acquisition of citizenship at birth and acquisition of citizenship after birth for foreign-born children of United States citizens residing in the United States.
- Provides up-to-date USCIS guidance on the naturalization provisions for foreign-born children of United States citizens residing outside of the United States.
- Clarifies that USCIS waives the Oath of Allegiance requirement for children under the age of 14.

Part I: Military Members and their Families

- Consolidates and provides up-to-date guidance on naturalization based on military service during peacetime and hostilities, posthumous citizenship, family-based naturalization benefits, and overseas processing.
- Clarifies that members of the National Guard may qualify for naturalization under the military provisions.
- Clarifies that the time certain military spouses and children reside abroad will be treated as continuous residence and physical presence in the United States.
- Provides up-to-date USCIS adjudication procedures, to include the fee exemptions for military related applications for certificates of citizenship and for appeals.

Part J: Oath of Allegiance

- Reaffirms USCIS's commitment to ensure applicants for naturalization meet the criteria for establishing attachment to U.S. Constitution through the Oath of Allegiance.
- Provides up-to-date USCIS guidance on all components of the Oath of Allegiance, to include requirements, modifications, affirmations and waivers.

- Reaffirms that USCIS provide alternatives for applicants that are unable or unwilling to take the full Oath of Allegiance and provides for a waiver for those who are unable to understand the meaning of the Oath of Allegiance.

[Part K: Certificates of Citizenship and Naturalization](#)

- Reaffirms USCIS's commitment to ensure applicants meet the eligibility requirements for issuance of Certificates of Citizenship and Naturalization.
- Provides up-to-date USCIS guidance on the required contents and issuance of Certificates of Citizenship and Naturalization.
- Clarifies that an applicant who has legally changed his or her gender may apply for a replacement certificate reflecting the new gender. Explains that any certificate that may affect the validity of a marriage under the Defense of Marriage Act (DOMA) is elevated to USCIS headquarters.
- Reaffirms that USCIS is authorized to cancel Certificates of Citizenship and Naturalization, to include cases involving fraud or where a court has revoked a person's naturalization.

[Part L: Revocation of Naturalization](#)

- Reaffirms USCIS's commitment to ensure applicants for naturalization meet the criteria for establishing eligibility for naturalization.
- Provides up-to-date USCIS guidance on all components of revocation of naturalization, to include cancellation of certificates and judicial revocation.

Citation

[USCIS Policy Manual, Volume 12: Citizenship and Naturalization, Parts A-L.](#)