



U.S. Citizenship and Immigration Services

USCIS Policy Manual

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Volume 12 - Citizenship and Naturalization

Part H - Children of U.S. Citizens

Chapter 3 - United States Citizens at Birth (INA 301 and 309)

A. General Requirements for Acquisition of Citizenship at Birth

A person born in the United States who is subject to the jurisdiction of the United States is a U.S. citizen at birth, to include a person born to a member of an Indian, Eskimo, Aleutian, or other aboriginal tribe.^[1]

In general, a person born outside of the United States may acquire citizenship at birth if:

- The person has at least one parent who is a U.S. citizen; and
- The U.S. citizen parent meets certain residence or physical presence requirements in the United States or an outlying possession prior to the person's birth in accordance with the pertinent provision.^[2]

A person born abroad through Assisted Reproductive Technology (ART) to a U.S. citizen gestational mother who is not also the genetic mother acquires U.S. citizenship at birth under [INA 301](#) or [INA 309](#) if:

- The person's gestational mother is recognized by the relevant jurisdiction as the child's legal parent at the time of the person's birth; and
- The person meets all other applicable requirements under either [INA 301](#) or [INA 309](#).^[3]

Until the Act of October 10, 1978, persons who had acquired U.S. citizenship through birth outside of the United States to one U.S. citizen parent had to meet certain physical presence requirements to retain their citizenship. This legislation eliminated retention requirements for persons who were born after October 10, 1952. There may be cases where a person who was born before that date, and therefore subject to the retention requirements, may have failed to retain citizenship.^[4]

An officer should determine whether a person acquired citizenship at birth by referring to the applicable statutory provisions and conditions that existed at the time of the person's birth. These provisions have been modified extensively over the years.^[5] The following sections provide the current law.

B. Child Born in Wedlock^[6]

1. Child of Two U.S. Citizen Parents^[7]

A child born outside of the United States and its outlying possessions acquires citizenship at birth if at the time of birth:

- Both of the child's parents are U.S. citizens; and
- At least one parent had resided in the United States or one of its outlying possessions.

2. Child of U.S. Citizen Parent and U.S. National^[8]

A child born outside of the United States and its outlying possessions acquires citizenship at birth if at the time of birth:

- One parent is a U.S. citizen and the other parent is a U.S. national; and
- The U.S. citizen parent was physically present in the United States or one of its outlying possessions for a continuous period of at least one year.

3. Child of U.S. Citizen Parent and Alien Parent^[9]

A child born outside of the United States and its outlying possessions acquires citizenship at birth if at the time of birth:

- One parent is an alien and the other parent is a U.S. citizen; and
- The U.S. citizen parent was physically present in the United States for at least 5 years, including at least 2 years after 14 years of age.

Time abroad counts as physical presence in the United States if the time abroad was:

- As a member of the U.S. armed forces in honorable status;
- Under the employment of the U.S. government or other qualifying organizations; or
- As a dependent unmarried son or daughter of such persons.

4. Child of a U.S. Citizen Mother and Alien Father^[10]

A child born outside of the United States and its outlying possessions acquires citizenship at birth if:

- The child was born before noon (Eastern Standard Time) May 24, 1934;
- The child's father is an alien;
- The child's mother was a U.S. citizen at the time of the child's birth; and
- The child's U.S. citizen mother resided in the United States prior to the child's birth.

C. Child Born Out of Wedlock^[11]

1. Child of U.S. Citizen Father

General Requirements for Fathers of Children Born Out of Wedlock

The general requirements for acquisition of citizenship at birth^[12] for a child born in wedlock also apply to a child born out of wedlock outside of the United States (or one of its outlying possessions) who claims citizenship through a U.S. citizen father. Specifically, the provisions apply in cases where:

- A blood relationship between the child and the father is established by clear and convincing evidence;
- The child’s father was a U.S. citizen at the time of the child’s birth;
- The child’s father (unless deceased) has agreed in writing to provide financial support for the child until the child reaches 18 years of age; and
- One of the following criteria is met before the child reaches 18 years of age:
 - The child is legitimated under the law of his or her residence or domicile;
 - The father acknowledges in writing and under oath the paternity of the child; or
 - The paternity of the child is established by adjudication of a competent court.

In addition, the residence or physical presence requirements contained in the relevant paragraph of [INA 301](#) continue to apply to children born out of wedlock, who are claiming citizenship through their fathers.

Written Agreement to Provide Financial Support

In order for a child born out of wedlock outside of the United States (or one of its outlying possessions) to acquire U.S. citizenship through his or her father, Congress included a requirement that the father agree in writing to provide financial support for the child until the child reaches the age of 18.^[13] Congress included the language to prevent children from becoming public charges.^[14] USCIS interprets the phrase in the statute “has agreed in writing to provide financial support”^[15] to mean that there must be documentary evidence that supports a finding that the father accepted the legal obligation to support the child until the age of 18.

The written agreement of financial support may be dated at any time before the child’s 18th birthday. If the child is under the age of 18 at the time of filing an Application for Certificate of Citizenship, the father may provide the written agreement of financial support either concurrently with the filing of the application or prior to the adjudication of the application. USCIS may request the written agreement of financial support at the time of issuance of a Request for Evidence or at the time of an interview (unless the interview is waived).

Alternatively, if the applicant is already over the age of 18, he or she may meet the requirement if one or more documents support a finding that the father accepted his legal obligation to support the child. In such cases, the evidence must have existed (and have been finalized) prior to the child’s 18th birthday and must have met any applicable foreign law or U.S. law governing the child’s or father’s residence to establish acceptance of financial responsibility.^[16]

In all cases, the applicant has the burden of proving the father has met any applicable requirements under the law to make an agreement to provide financial support. A written agreement of financial support is not required if the father died before the child’s 18th birthday.^[17]

Written Agreement Requirements

In order for a document to qualify as a written agreement of financial support under [INA 309\(a\)\(3\)](#), the document:

- Must be in writing and acknowledged by the father;^[18]
- Must indicate the father's agreement to provide financial support for the child;^[19] and
- Must be dated before the child's 18th birthday.

In addition, USCIS considers whether the agreement was voluntary.

Other Acceptable Documentation

A written agreement of financial support may come in different forms and documents. USCIS may consider other similar documentation in which the father accepts financial responsibility of the child until the age of 18. Some examples of documents USCIS may consider include:

- A previously submitted Affidavit of Support (Form I-134) or Affidavit of Support Under Section 213A of the INA (Form I-864);
- Military Defense Enrollment Eligibility Reporting System (DEERS) enrollment;
- Written voluntary acknowledgement of a child in a jurisdiction where there is a legal requirement that the father provide financial support;^[20]
- Documentation establishing paternity by a court or administrative agency with jurisdiction over the child's personal status, if accompanied by evidence from the record of proceeding establishing the father initiated the paternity proceeding and the jurisdiction legally requires the father to provide financial support; or
- A petition by the father seeking child custody or visitation with the court of jurisdiction with an agreement to provide financial support and the jurisdiction legally requires the father to provide financial support.

2. Child of U.S. Citizen Mother

The rules that determine whether a child born out of wedlock outside of the United States derives citizenship at birth from his or her U.S. citizen mother vary depending on when the child was born.

Child Born On or After December 23, 1952 and Before June 12, 2017

A child born between December 23, 1952 and June 12, 2017 who is born out of wedlock outside of the United States and its outlying possessions acquires citizenship at birth if:

- The child's mother was a U.S. citizen at the time of the child's birth; and
- The child's U.S. citizen mother was physically present in the United States or one of its outlying possessions for 1 continuous year prior to the child's birth.^[21]

Child Born On or After June 12, 2017

A child born on or after June 12, 2017, who is born out of wedlock outside of the United States or one of its outlying possessions acquires citizenship at birth if:

- The child's mother was a U.S. citizen at the time of the child's birth; and

- The child's U.S. citizen mother was physically present in the United States or one of its outlying possessions for at least 5 years prior to the child's birth (at least 2 years of which were after age 14).^[22]

Effect of Sessions v. Morales-Santana Decision

Prior to the U.S. Supreme Court's decision in *Sessions v. Morales-Santana*,^[23] the physical presence requirements for children born out of wedlock were different for a child acquiring citizenship through a U.S. citizen mother than for those acquiring through a U.S. citizen father. An unwed U.S. citizen mother could transmit citizenship to her child if the mother was physically present in the United States for 1 continuous year prior to the child's birth.^[24] An unwed U.S. citizen father, by contrast, was held to the longer physical presence requirement of 5 years (at least 2 years of which were after age 14) in the United States or one of its outlying possessions.^[25]

On June 12, 2017, the U.S. Supreme Court held, in *Sessions v. Morales-Santana*, that the different physical presence requirements for an unwed U.S. citizen father and an unwed U.S. citizen mother violated the U.S. Constitution's Equal Protection Clause.^[26] The U.S. Supreme Court indicated that the 5 years of physical presence (at least 2 years of which were after age 14)^[27] requirement should apply prospectively to all cases involving a child born out of wedlock outside the United States to one U.S. citizen parent and one alien parent, regardless of the gender of the parent.^[28]

The U.S. Supreme Court decision effectively eliminated, prospectively, the 1 year continuous physical presence requirement that previously applied to unwed U.S. citizen mothers, and replaced it with the higher physical presence requirement that previously applied to unwed U.S. citizen fathers.^[29] After *Sessions v. Morales-Santana*, the 1-year continuous physical presence requirement^[30] remains in effect only for those children born prior to June 12, 2017 outside of the United States to unwed U.S. citizen mothers.

D. Application for Certificate of Citizenship (Form N-600)

A person born abroad who acquires U.S. citizenship at birth is not required to file an Application for Certificate of Citizenship (Form N-600). A person who seeks documentation of such status, however, must submit an application to obtain a Certificate of Citizenship from USCIS. A person may also apply for a U.S. passport with the Department of State to serve as evidence of his or her U.S. citizenship.^[31]

A person who is at least 18 years of age may submit the Application for Certificate of Citizenship on his or her own behalf. If the application is for a child who has not reached 18 years of age, the child's U.S. citizen parent or legal guardian must submit the application.^[32]

USCIS will issue a proof of U.S. citizenship in the form of a Certificate of Citizenship if the Application for Certificate of Citizenship is approved and the person takes the Oath of Allegiance, if required to do so.^[33]

E. Citizenship Interview and Waiver

In general, an applicant must appear in person for an interview before a USCIS officer after filing an Application for Certificate of Citizenship. This includes the U.S. citizen parent or legal guardian if the application is filed on behalf of a child under 18 years of age.^[34] USCIS, however, may waive the interview requirement if all the required documentation necessary to establish the applicant's eligibility is already included in USCIS administrative records, or if the application is accompanied by one of the following:

- Consular Report of Birth Abroad (FS-240);
- Applicant's unexpired U.S. passport issued initially for a full 5 or 10-year period; or
- Certificate of Naturalization of the applicant's parent or parents.^[35]

F. Decision and Oath of Allegiance

1. Approval of Application, Oath of Allegiance, and Waiver for Children under 14 Years of Age

If an officer approves the Application for Certificate of Citizenship, USCIS administers the Oath of Allegiance before issuing a Certificate of Citizenship.^[36]

However, the Immigration and Nationality Act (INA) permits USCIS to waive the taking of the Oath of Allegiance if USCIS determines the person is unable to understand its meaning.^[37] USCIS has determined that children under the age of 14 are generally unable to understand the meaning of the oath.

Accordingly, USCIS waives the oath requirement for a child younger than 14 years of age. If USCIS waives the oath requirement, USCIS issues a Certificate of Citizenship after the officer approves the application.

2. Denial of Application

If an officer denies the Certificate of Citizenship application, the officer must notify the applicant in writing of the reasons for denial and include information on the right to appeal in the notice.^[38] An applicant may file an appeal within 30 calendar days after service of the decision (33 days if the decision was mailed).

Footnotes

1. [^] See [INA 301\(a\)](#) and [INA 301\(b\)](#). Children of certain diplomats who are born in the United States are not U.S. citizens at birth because they are not subject to the jurisdiction of the United States. See [8 CFR 101.3](#).
2. [^] Any time spent abroad in the U.S. armed forces or other qualifying organizations counts towards that physical presence requirement. See [INA 301\(g\)](#).
3. [^] For a more thorough discussion, see Chapter 2, Definition of Child and Residence for Citizenship and Naturalization, Section E, Child Born Abroad through Assisted Reproductive Technology [[12 USCIS-PM H.2\(E\)](#)].
4. [^] The Act of October 10, 1978, [Pub. L. 95-432 \(PDF\)](#), repealed the retention requirements of former INA 301(b). The amending legislation was prospective only and did not restore citizenship to anyone who, prior to its enactment, had lost citizenship for failing to meet the retention requirements.
5. [^] Officers should use the Nationality Charts to assist with the adjudication of these applications.
6. [^] See [INA 301](#). See [Nationality Chart 1](#).
7. [^] See [INA 301\(c\)](#).
8. [^] See [INA 301\(d\)](#).
9. [^] See [INA 301\(g\)](#).
10. [^] See [INA 301\(h\)](#).
11. [^] See [INA 309](#). See [Nationality Chart 2](#).
12. [^] See [INA 301\(c\)](#), [INA 301\(d\)](#), [INA 301\(e\)](#), and [INA 301\(g\)](#). See Section A, General Requirements for Acquisition of Citizenship at Birth [[12 USCIS-PM H.3\(A\)](#)].
13. [^] A separate agreement or contract is not required for the father to satisfy the requirement. See [INA 309\(a\)\(3\)](#). See the Immigration and Nationality Act Amendments of 1986, [Pub. L. 99-653 \(PDF\)](#) (November 14, 1986).
14. [^] See the Immigration and Nationality Act Amendments of 1986, [Pub. L. 99-653 \(PDF\)](#) (November 14, 1986). The Immigration and Nationality Act (INA) was intended to keep families together and generally construed in favor of family unity and the acceptance of responsibility by family members. See *Solis-Espinoza v. Gonzales*, 401 F.3d 1090 (9th Cir. 2005).
15. [^] See [INA 309\(a\)\(3\)](#).

16. [^] In many cases, the issue of whether the father agreed to provide financial support depends on foreign law. The applicant bears the burden of proving the father has met any applicable requirements to make a binding agreement under the law. See *Matter of Annang*, (PDF), 14 I&N Dec. 502 (BIA 1973). Officers should consult USCIS counsel about any requirements under the law.
17. [^] See [INA 309](#).
18. [^] A court document may be signed by a judge rather than the father, but may still serve as evidence to meet this requirement if there is an indication in the record of proceedings that the father consented to the determination of paternity.
19. [^] Since the statute only provides for the agreement of the father to provide support and does not provide for any loss of citizenship if the agreement is not met, USCIS does not consider whether the father actually provided financial support.
20. [^] For example, a birth certificate or acknowledgement document submitted and certified by the father. Under U.S. jurisdictions, a written voluntary acknowledgement of a child generally triggers a legal obligation to support the child. However, under foreign jurisdictions, a voluntary written agreement may not always trigger a legal obligation to support the child. The officer may consult with local USCIS counsel for questions regarding the effect of the law.
21. [^] See [INA 309\(c\)](#).
22. [^] See [INA 301\(g\)](#). See *Sessions v. Morales-Santana* (PDF), 137 S.Ct. 1678 (2017).
23. [^] See *Sessions v. Morales-Santana*, (PDF) 137 S.Ct. 1678 (2017).
24. [^] See [INA 309\(c\)](#).
25. [^] See [INA 301\(g\)](#).
26. [^] See *Sessions v. Morales-Santana*, (PDF) 137 S.Ct. 1678 (2017). See [U.S. Constitution, amend. XIV](#).
27. [^] See [INA 301\(g\)](#).
28. [^] See *Sessions v. Morales-Santana* (PDF), 137 S.Ct. 1678 (2017).
29. [^] See [INA 309\(c\)](#).
30. [^] See [INA 309\(c\)](#).
31. [^] See [8 CFR 341.1](#). The Secretary of State has jurisdiction over claims of U.S. citizenship made by persons who are abroad, and the Secretary of Homeland Security has jurisdiction over the administration and enforcement of the INA within the United States. See [INA 103\(a\)\(1\)](#) and [INA 104\(a\)\(3\)](#). There is nothing precluding USCIS from accepting a Form N-600 filed under [INA 301](#) or [INA 309](#) by a person who does not live in the United States. See [INA 341\(a\)](#).
32. [^] See [8 CFR 341.1](#).
33. [^] See Section F, Decision and Oath of Allegiance [[12 USCIS-PM H.3\(F\)](#)]. See [8 CFR 341.5\(b\)](#).
34. [^] See [8 CFR 341.2\(a\)\(2\)](#).
35. [^] See [8 CFR 341.2\(a\)](#).
36. [^] See [INA 337\(a\)](#). See [8 CFR 341.5\(b\)](#). See Part J, Oath of Allegiance, Chapter 2, The Oath of Allegiance [[12 USCIS-PM J.2](#)].
37. [^] See [INA 337\(a\)](#). See [8 CFR 341.5\(b\)](#).
38. [^] See [8 CFR 341.5\(d\)](#) and [8 CFR 103.3\(a\)](#).

Legal Authorities

INA 101(c) - Definition of child for citizenship and naturalization

INA 301 - Nationals and citizens of the United States at birth

INA 309 - Children born out of wedlock

INA 332, 8 CFR 332 - Naturalization administration, executive functions

INA 341, 8 CFR 341 - Certificates of citizenship

Forms

G-28, Notice of Entry of Appearance as Attorney or Accredited Representative

N-600, Application for Certificate of Citizenship

Appendices

Nationality Chart 1

Appendix: Children Born Outside the United States in Wedlock (Nationality Chart 1)

Nationality Chart 1

Children ^[1] Born Outside the United States in Wedlock

PERIOD IN WHICH CHILD WAS BORN	CITIZENSHIP OF PARENTS AT TIME OF CHILD'S BIRTH	PARENTS' RESIDENCE AND PHYSICAL PRESENCE PRIOR TO CHILD'S BIRTH	CHILD'S RETENTION REQUIREMENT
<i>STEP 1: Determine period in which child was born</i>	<i>STEP 2: Determine parents' citizenship at time of child's birth</i>	<i>STEP 3: Did U.S. citizen (USC) parent meet residence or physical presence requirement prior to birth? (If yes, child was a USC at birth)</i>	<i>STEP 4: Did child meet retention requirement (if any)? (Child lost citizenship on date it became impossible to meet requirement)</i>
Prior to May 24, 1934	Either parent a USC ^[2]	USC parent resided in the United States	Not Applicable
On or	Both parents	At least one USC parent	Not Applicable

<p>After</p> <p>May 24, 1934</p> <p>and Prior To</p> <p>Jan. 13, 1941</p>	<p>USCs</p> <p>One USC parent and one alien parent</p>	<p>resided in the United States</p> <p>USC parent resided in the United States</p>	<p>5 years residence ^[3]in the United States or Outlying Possession (OLP) between ages 13 and 21 (must start before age 16) ^[4]</p> <p>OR</p> <p>5 years continuous physical presence in the United States between ages 14 and 28 (must start before age 23)</p> <p>OR</p> <p>2 years continuous physical presence in the United States between ages 14 and 28 (must start before age 26)</p> <p>OR</p> <p>Exempt, if at time of child's birth, USC parent was employed by U.S. government or specified organization</p>
<p>On or After</p> <p>Jan. 13, 1941</p> <p>and Prior To</p> <p>Dec. 24, 1952</p>	<p>One USC parent and one alien parent</p> <p>Both parents USCs</p>	<p>USC parent resided in United States or OLP for 10 years, at least 5 years of which were after age 16</p> <p>Special provisions for parents with honorable service in the U.S. armed forces:</p> <p>(1) Between Dec. 7, 1941 and Dec. 31, 1946, 10 years of residence, at least 5 years of which were after age 12</p> <p>(2) Between Jan. 1, 1947 and Dec. 24, 1952, 10 years of physical presence, at least 5 years of which were after age 14 ^[5]</p> <p>At least one USC parent resided in the United States or OLP ^[9]</p>	<p>5 years residence in the United States or OLP between ages 13 and 21 (must start before age 16) ^[6]</p> <p>OR</p> <p>5 years continuous physical presence in the United States between ages 14 and 28 (must start before age 23) ^[7]</p> <p>OR</p> <p>2 years continuous physical presence in the United States between ages 14 and 28 (must start before age 26)</p> <p>OR</p> <p>Exempt, if at time of child's birth, USC parent was employed by U.S. government or specified organization (exemption does not apply if parent used a special provision in column 3) ^[8]</p> <p>Not Applicable</p>
<p>On or After</p>	<p>Both parents USCs</p>	<p>At least one USC parent resided in the United States or OLP ^[10]</p>	<p>Not Applicable</p>

Dec. 24, 1952 and Prior To Nov. 14, 1986	One USC parent and one alien parent	USC parent physically present in the United States or OLP for 10 years, at least 5 years of which were after age 14 ^[11]	Not Applicable
	Both parents USCs	At least one USC parent resided in the United States or OLP	Not Applicable
On or After Nov. 14, 1986	One USC parent and one alien parent	USC parent physically present in the United States or OLP for 5 years, at least 2 years of which were after age 14 ^[12]	Not Applicable

Footnotes

1. [^] A child must meet the definition of child under the Immigration and Nationality Act (INA). See Volume 12, Citizenship and Naturalization, Part H, Children of U.S. Citizens, Chapter 2, Definition of Child and Residence for Citizenship and Naturalization [12 USCIS-PM H.2].
2. [^] USC mother added by Immigration and Nationality Technical Corrections Act of 1994, Pub. L. 103-416, 108 Stat. 4305 (October 5, 1994).
3. [^] Includes periods spent abroad while employed by the U.S. government or an international organization as defined in 22 U.S.C. 288, or as a dependent, unmarried son or daughter, who is member of the household of such an employee.
4. [^] See former Section 301(b) in the INA of 1952, Pub. L. 82-414, 66 Stat. 163, 236 (June 27, 1952). The child's residence must also start before the INA of 1952's effective date, December 24, 1952.
5. [^] Includes periods spent abroad while employed by the U.S. government or an international organization as defined in 22 U.S.C. 288, or as a dependent, unmarried son or daughter, who is member of the household of such an employee.
6. [^] See former Section 301(b) in the INA of 1952, Pub. L. 82-414, 66 Stat. 163, 236 (June 27, 1952). The child's residence must also start before the INA of 1952's effective date, December 24, 1952.
7. [^] See Act of October 27, 1972, Pub. L. 92-584, 86 Stat. 1289. The child's residence must also start before the Act's effective date, October 27, 1972.
8. [^] Absence of less than 12 months in the aggregate during the 5-year period does not break continuity of residence or physical presence. Absence of less than 60 days in the 2-year period in the aggregate does not break continuity of physical presence. Honorable service in the U.S. armed forces counts as residence or physical presence.

Retention Requirements

- A child is relieved from the retention requirements if, prior to his or her 18th birthday, the child begins to reside permanently in the United States and the alien parent naturalizes.
- The Act of October 10, 1978, Pub. L. 95-423, repealed retention requirements prospectively only. Anyone born on or after October 11, 1952 (not age 26 on October 10, 1978) was no longer subject to retention requirements. Since the amending legislation was prospective only, it did not restore citizenship to anyone who, prior to its enactment, had lost citizenship for failing to meet the retention requirements.

9. [^] Includes periods spent abroad while employed by the U.S. government or an international organization as defined in 22 U.S.C. 288, or as a dependent, unmarried son or daughter, who is member of the household of such an employee.

10. [^] Includes periods spent abroad while employed by the U.S. government or an international organization as defined in 22 U.S.C. 288, or as a dependent, unmarried son or daughter, who is member of the household of such an employee.

11. [^] Includes periods spent abroad while employed by the U.S. government or an international organization as defined in 22 U.S.C. 288, or as a dependent, unmarried son or daughter, who is member of the household of such an employee.

12. [^] See former Section 301(b) in the INA of 1952, Pub. L. 82-414, 66 Stat. 163, 236 (June 27, 1952). The child's residence must also start before the INA of 1952's effective date, December 24, 1952.

Nationality Chart 2

Appendix: Children Born Outside the United States Out of Wedlock (Nationality Chart 2)

Nationality Chart 2 (4 tables below)
Children ^[1] Born Outside the United States Out of Wedlock

Child Born Out of Wedlock to U.S. Citizen Mother (Table 1 of 4)

PERIOD IN WHICH CHILD WAS BORN	ELIGIBILITY REQUIREMENTS
Prior To May 24, 1934	The child was born an alien. HOWEVER , the child became a U.S. citizen (USC) retroactively to birth, effective on Jan. 13, 1941, if the child's mother resided in the United States or Outlying Possession (OLP) prior to the child's birth, UNLESS the child was legitimated by the alien father prior to Jan. 13, 1941.

PERIOD IN WHICH CHILD WAS BORN	ELIGIBILITY REQUIREMENTS
<p><i>On or After</i> May 24, 1934</p> <p><i>and Prior To</i> Dec. 24, 1952</p>	<p>The mother resided in the United States or OLP at any time prior to the child’s birth.</p>
<p><i>On or After</i> Dec. 24, 1952</p> <p><i>and Prior To</i> June 12, 2017</p>	<p>The mother maintained at least 1 year of continuous physical presence in the United States or OLP at any time prior to the child’s birth.</p>
<p><i>On or After</i> June 12, 2017 ^[2]</p>	<p>The mother was physically present in the United States or OLP for at least 5 years prior to the child’s birth (at least 2 years of which were after age 14).</p>

Child Born Out of Wedlock to U.S. Citizen Father and Alien Mother
Child Legitimated by Father (Table 2 of 4)

PERIOD IN WHICH CHILD WAS BORN	ELIGIBILITY REQUIREMENTS
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PERIOD IN WHICH CHILD WAS BORN	ELIGIBILITY REQUIREMENTS
<p>Prior To May 24, 1934</p>	<ul style="list-style-type: none"> <li data-bbox="429 253 1409 339">• The child was legitimated at any time after birth under the laws of the father’s domicile; <li data-bbox="429 376 1409 425">• The USC father resided in the United States prior to the child’s birth; and <li data-bbox="429 461 1409 511">• No residence required for the child to retain U.S. citizenship.
<p>On or After May 24, 1934</p> <p>and Prior To Jan. 13, 1941</p>	<ul style="list-style-type: none"> <li data-bbox="429 607 1409 694">• The child was legitimated at any time after birth under the laws of the father’s domicile; <li data-bbox="429 731 1409 819">• The USC father resided in the United States prior to the child’s birth; ^[3] and <li data-bbox="429 856 1409 905">• The child met retention requirements. <p data-bbox="782 942 1412 977" style="text-align: right;"><i>See Nationality Chart 1 for retention requirements.</i></p>
<p>On or After Jan. 13, 1941</p> <p>and Prior To Dec. 24, 1952</p>	<ul style="list-style-type: none"> <li data-bbox="429 1060 1409 1148">• The child was legitimated before age 21 under the laws of the father’s domicile; <li data-bbox="429 1185 1409 1295">• The USC father resided in the United States or OLP for at least 10 years, at least 5 years of which were after age 14, at the time of the child’s birth; and <li data-bbox="429 1332 1409 1381">• The child met retention requirements. <p data-bbox="459 1418 1412 1453" style="text-align: right;"><i>See Nationality Chart 1 for special provisions and for retention requirements.</i></p>

PERIOD IN WHICH CHILD WAS BORN	ELIGIBILITY REQUIREMENTS
<p><i>On or After</i> Dec. 24, 1952</p> <p><i>and Prior To</i> Nov. 14, 1986</p>	<ul style="list-style-type: none"> • The child was legitimated before age 21 under the laws of the father’s domicile; ^[4] • The child was legitimated PRIOR TO Nov. 14, 1986; • The child must be unmarried; • The USC father was physically present in the United States or OLP for 10 years, at least 5 years of which were after age 14, at the time of the child’s birth; and • No residence required for the child to retain U.S. citizenship. <p style="text-align: right;"><i>See Nationality Chart 1 for special provisions.</i></p>

Child Born Out of Wedlock to U.S. Citizen Father and Alien Mother
Child Legitimated or Acknowledged by Father (Table 3 of 4)

DATE RELATIONSHIP ESTABLISHED	ELIGIBILITY REQUIREMENTS

DATE RELATIONSHIP ESTABLISHED	ELIGIBILITY REQUIREMENTS
<p><i>On or After</i> Nov. 14, 1986</p>	<ul style="list-style-type: none"> • The child was legitimated OR acknowledged before age 18* (legitimated under the laws of the child’s residence or domicile; or paternity acknowledged in writing under oath; or paternity established by court order); • A blood relationship between the child and father was established; • The father, unless deceased, has agreed in writing to provide financial support until child reaches age 18; ^[5] • The child must be unmarried; and • The USC father was physically present in the United States or OLP for 5 years, at least 2 years of which were after age 14, at the time of the child’s birth. <p><i>*A child age 18 or over on Nov. 14, 1986 could use the old law. ^[6] A child at least age 15, but under 18, could use either law (date of birth on or after Nov. 15, 1968).</i></p>

Child Born Out of Wedlock to Two U.S. Citizen Parents (Table 4 of 4)

PERIOD IN WHICH CHILD WAS BORN	ELIGIBILITY REQUIREMENTS
	<p>If both parents are U.S. citizens, the child may qualify under either parent. The child must meet the requirements for acquisition of citizenship under the mother OR the father; the child does not need to meet both requirements.</p>

<p>PERIOD IN WHICH CHILD WAS BORN</p>	<p>ELIGIBILITY REQUIREMENTS</p> <p>If both parents are U.S. citizens, the child may qualify under either parent. The child must meet the requirements for acquisition of citizenship under the mother OR the father; the child does not need to meet both requirements.</p>
<p>On or After Dec. 24, 1952</p> <p>and Prior To Nov. 14, 1986</p>	<p>Citizenship through U.S. Citizen Mother</p> <ul style="list-style-type: none"> The mother had at least 1 year of continuous physical presence in the United States or OLP at any time prior to the child’s birth. <p>Citizenship through U.S. Citizen Father</p> <ul style="list-style-type: none"> The child was legitimated before age 21 under the laws of the father’s domicile; [7] The child was legitimated PRIOR TO Nov. 14, 1986; The child must be unmarried; and Either parent resided in the United States at any time prior to the child’s birth.
<p>On or After Nov. 14, 1986</p> <p>and Prior To June 12, 2017</p>	<p>Citizenship through U.S. Citizen Mother</p> <ul style="list-style-type: none"> The mother had at least 1 year of continuous physical presence in the United States or OLP at any time prior to the child’s birth. <p>Citizenship through U.S. Citizen Father</p> <ul style="list-style-type: none"> The child was legitimated OR acknowledged before age 18* (legitimated under the laws of the child’s residence or domicile; or paternity acknowledged in writing under oath; or paternity established by court order); A blood relationship between the child and father was established; The father, unless deceased, has agreed in writing to provide financial support until child reaches age 18; [8] The child must be unmarried; and Either parent resided in the United States at any time prior to the child’s birth. <p><i>*A child age 18 or over on Nov. 14, 1986 could use the old law. [9] A child at least age 15, but under 18, could use either law (date of birth on or after Nov. 15, 1968).</i></p>

PERIOD IN WHICH CHILD WAS BORN	ELIGIBILITY REQUIREMENTS
<p>On or After</p> <p>June 12, 2017</p>	<p>Citizenship through U.S. Citizen Father</p> <ul style="list-style-type: none"> • The child was legitimated OR acknowledged before age 18 (legitimated under the laws of the child’s residence or domicile; or paternity acknowledged in writing under oath; or paternity established by court order); • A blood relationship between child and father was established; • The father, unless deceased, has agreed in writing to provide financial support until child reaches age 18; ^[10] • The child must be unmarried; and • Either parent resided in the United States at any time prior to the child’s birth. <p>If the child does not meet these requirements, but one or both parents resided in the United States at any time prior to the child’s birth, the officer should consult the Office of Chief Counsel (OCC).</p>

Footnotes

1. [^] A child must meet the definition of child under the Immigration and Nationality Act (INA). See Volume 12, Citizenship and Naturalization, Part H, Children of U.S. Citizens, Chapter 2, Definition of Child and Residence for Citizenship and Naturalization [[12 USCIS-PM H.2](#)].

2. [^] See *Sessions v. Morales-Santana*, 137 S.Ct. 1678 (2017).

3. [^] Includes periods spent abroad while employed by the U.S. government or an international organization as defined in [22 U.S.C. 288](#), or as the dependent unmarried son who resided as a member of the employee’s household during any relevant period(s) of absence from the United States.

4. [^] In cases arising within the Ninth Circuit, the laws of the father’s residence and the laws of the child’s residence must be considered to determine whether legitimation occurred. See *Burgess v. Meese*, 802 F.2d 338 (9th Cir. 1986).

5. [^] For additional information regarding a written statement of financial support, see Volume 12, Citizenship and Naturalization, Part H, Children of U.S. Citizens, Chapter 3, U.S. Citizens at Birth (INA 301 and 309), Section C, Child Born Out of Wedlock [[12 USCIS-PM H.3\(C\)](#)].

6. [^] See Child Born Out Of Wedlock to U.S. Citizen Father and Alien Mother; Child Legitimated by Father (Table 2 of 4).

7. [^] In cases arising within the Ninth Circuit, the laws of the father’s residence and the laws of the

child's residence must be considered to determine whether legitimation occurred. See *Burgess v. Meese*, 802 F.2d 338 (9th Cir. 1986).

8. [^] For additional information regarding a written statement of financial support, see Volume 12, Citizenship and Naturalization, Part H, Children of U.S. Citizens, Chapter 3, U.S. Citizens at Birth (INA 301 and 309), Section C, Child Born Out of Wedlock [12 USCIS-PM H.3(C)].

9. [^] See Child Born Out Of Wedlock to U.S. Citizen Father and Alien Mother; Child Legitimated by Father (Table 2 of 4).

10. [^] For additional information regarding a written statement of financial support, see Volume 12, Citizenship and Naturalization, Part H, Children of U.S. Citizens, Chapter 3, U.S. Citizens at Birth (INA 301 and 309), Section C, Child Born Out of Wedlock [12 USCIS-PM H.3(C)].

Nationality Chart 3

Appendix: Derivative Citizenship of Children (Nationality Chart 3)

Nationality Chart 3

Derivative Citizenship of Children ^[1]

A child may derive U.S. citizenship during the below listed historical periods if such child was under the statutory age, AND the child became a lawful permanent resident (LPR), AND the parent(s) naturalized. It does not matter in which order the actions occurred.

PERIOD IN WHICH LAST ACTION TOOK PLACE	CHILD BECAME LPR BEFORE STATUTORY AGE OF	NATURALIZATION OF PARENT(S) PRIOR TO CHILD'S STATUTORY AGE	ADDITIONAL REMARKS
<i>Prior To</i> May 24, 1934	21 years old	At least one parent naturalized	None
<i>On or After</i>	21 years old	At least one parent naturalized	U.S. citizenship effective 5 years from date child becomes an LPR ^[2]
May 24, 1934 <i>and Prior To</i> Jan. 13,	21 years old	Both parents ^[3] naturalized	None

1941			
<i>On or After</i> Jan. 13, 1941	18 years old	Both parents ^[4] naturalized	Child born out of wedlock derived on Dec. 24, 1952 if under age 16 and had remained an LPR ^[5]
<i>and Prior To</i> Dec. 24, 1952			
<i>On or After</i> Dec. 24, 1952	18 years old	Both parents ^[6] naturalized	Child unmarried (does not include adopted children, but adopted children may derive through the naturalization of their biological parent(s) after adoption if all other requirements are met) ^[7]
<i>and Prior To</i> Oct. 5, 1978			
<i>On or After</i> Oct. 5, 1978	18 years old	Both parents ^[8] naturalized	Child unmarried (includes child adopted before age 16 who is residing with adoptive parent(s) at the time of their naturalization) ^[9]
<i>and Prior To</i> Feb. 27, 2001			
<i>On or After</i> Feb. 27, 2001	18 years old	At least one parent is a U.S. citizen by birth or naturalization	Child resides in the United States in legal and physical custody of U.S. citizen parent (includes adopted child of U.S. citizen; must meet <u>INA 101(b)(1)</u> requirements for adopted children)

Footnotes

1. [△] A child must meet the definition of child under the Immigration and Nationality Act (INA). See Volume 12, Citizenship and Naturalization, Part H, Children of U.S. Citizens, Chapter 2, Definition of <https://www.uscis.gov/policy-manual/volume-12-part-h-chapter-3#footnote-23>

Volume 12, Citizenship and Naturalization, Part II, Children of U.S. Citizens, Chapter 2, Definition of Child and Residence for Citizenship and Naturalization [[12 USCIS-PM H.2](#)]. A child not legitimated by the father may only derive from the mother. In cases with two U.S. citizen parents where the child is born out of wedlock on or after June 12, 2017, the Office of Chief Counsel (OCC) advises that officers first determine whether the child acquired citizenship through the U.S. citizen father under INA 309(a), as that standard is unaffected by *Morales-Santana*. If the child did not acquire citizenship through the U.S. citizen father, OCC would like to review the case because it is still considering, in consultation with the Department of State (DOS) and Department of Justice (DOJ), the standard under which a U.S. citizen mother can pass citizenship to a child born out of wedlock to two U.S. citizen parents.

2. [[^](#)] Child relieved of the remainder of the 5-year waiting period if the naturalized parent meets definition of “both parents.”

3. [[^](#)] The definition of “both parents” includes:

- The surviving parent should the other parent die;
- The naturalized parent having legal custody in the case of a divorce; or
- The mother of a child born out of wedlock.

4. [[^](#)] The definition of “both parents” as found in Section 313-14 of the Nationality Act of 1940, Pub. L. 76-853, 54 Stat. 1145-46 (October 14, 1940) includes:

- The surviving parent should the other parent die;
- The naturalized parent having legal custody in the case of a divorce or a legal separation; or
- The alien parent who naturalizes when the other parent is already a U.S. citizen since the child’s birth.

5. [[^](#)] Once the child was legitimated under the age of 16, both parents were required to naturalize.

6. [[^](#)] The definition of “both parents” as found in former INA 321 and former INA 320, [Pub. L 82-414](#), 66 Stat. 163, 245 (June 27, 1952) includes:

- The surviving parent should the other parent die;
- The naturalized parent having legal custody in the case of a divorce or a legal separation;
- The mother of a child born out of wedlock, as long as the child had not been legitimated (if a child was properly legitimated under the age of 16, the law required both parents to naturalize); or
- The alien parent who naturalizes when the other parent is already a U.S. citizen since the child’s birth.

7. [[^](#)] In the Second Circuit (New York, Connecticut, and Vermont), the child is not required to become an LPR before the age of 18, provided that the child begins to reside permanently in the United States while under the age of 18. A child begins to reside permanently in the United States when the child is physically in the United States, intends to reside in the United States permanently, and has taken some official action to accomplish that, such as applying for lawful permanent residence. For additional information, officers should contact their local OCC counsel.

8. [[^](#)] The definition of “both parents” as found in former INA 321, [Pub. L 82-414](#), 66 Stat. 163, 245 (June 27, 1952) includes:

- The surviving parent should the other parent die;
- The naturalized parent having legal custody in the case of a divorce or a legal separation; or
- The mother of a child born out of wedlock, as long as the child had not been legitimated (if a child was properly legitimated under the age of 16, the law required both parents to naturalize).

The definition of “both parents” as found in former INA 320, Pub. L 82-414, 66 Stat. 163, 245 (June 27, 1952) includes:

- The alien parent who naturalizes when the other parent is already a U.S. citizen since the child’s birth.
- In the case of a child with one adoptive parent and one natural parent, the adoptive parent must naturalize. He or she may not be a native-born U.S. citizen.

9. [△] An adopted child must be residing in the United States, with lawful admission, in the custody of the adoptive parent(s) at the time of the parent’s naturalization, meet all the requirements for adopted children in INA 101(b)(1), and be adopted by a certain age depending on the period of last action:

- On or after October 5, 1978 and prior to November 29, 1981, adoption before age 16.

Nationality Chart 4

Appendix: Children of U.S. Citizens Regularly Residing Outside United States (INA 322) (Nationality Chart 4)

Nationality Chart 4

Children of U.S. Citizens Regularly Residing Outside the United States (INA 322) ^[1]

GENERAL REQUIREMENTS	PHYSICAL PRESENCE OF PARENT OR GRANDPARENT
<ul style="list-style-type: none"> • Must meet the definition of child under <u>INA 101(c)(1)</u>. ^[2] • The child has at least one U.S. citizen (USC) parent by birth or through naturalization (including an adoptive parent). An adoptive parent must meet the requirements of <u>INA 101(b)(1)(E)</u>, <u>INA 101(b)(1)(F)</u>, or <u>INA 101(b)(1)(G)</u>. • The child’s USC parent or USC grandparent meets physical presence requirements. • The child is under 18 years of age (at the time of adjudication and the taking of the Oath of 	<p>U.S. Citizen Parent</p> <p>USC parent was physically present in the United States or its outlying possessions for at least 5 years (at least 2 years of which were after age 14)</p> <p>OR</p> <p>U.S. Citizen Grandparent</p> <p>If the USC parent has died, the USC parent must have met the physical presence requirement stated above at time of death. If the child’s USC parent does not meet the requirement, the child may rely on the physical presence of the child’s USC grandparent (at least 5 years, at least 2 years of which were after age 14), provided the grandparent meets the requirement as of the USC parent’s time of death.</p>

<p>Allegiance, ^[3] unless the Oath taker is unable to understand its meaning by reason of mental incapacity or young age).</p> <p>GENERAL REQUIREMENTS</p> <ul style="list-style-type: none"> The child is residing outside of the United States in the legal and physical custody of the USC parent, or a person who does not object to the application if the USC parent is deceased. At the time the application is approved and time of naturalization, the child is lawfully admitted, physically present, and maintaining a lawful status in the United States. Both the child and the citizen parent must appear at an interview. <p>Children of Military Members</p> <p>For children of military members authorized to accompany the member abroad and residing with the military member parent:</p> <ul style="list-style-type: none"> The parent’s authorized period abroad counts as physical presence in the United States; The child does not need to reside in the United States in lawful status; and The child may take the Oath abroad. ^[4] <p>U.S. Citizen Grandparent or Legal Guardian Filing on Behalf of Child</p> <p>If the USC parent has died, the child’s USC grandparent or USC</p>	<p style="text-align: center;">PHYSICAL PRESENCE OF PARENT OR GRANDPARENT</p>
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<p>legal guardian may file on the child's behalf after the USC parent's death.</p>	<p>PHYSICAL PRESENCE OF PARENT OR GRANDPARENT</p>
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Footnotes

- [^] Since the enactment of the Immigration and Nationality Act (INA) of 1952, [Pub. L. 82-414](#) (June 27, 1952), Congress has provided for the naturalization of a child under age 18 upon petition by the U.S. citizen parent. See [INA 322](#). The requirements varied with different amendments, but naturalization under this provision always required an application or petition by the parent; citizenship was not automatic.
- [^] See Volume 12, Citizenship and Naturalization, Part H, Children of U.S. Citizens, Chapter 2, Definition of Child and Residence for Citizenship and Naturalization [[12 USCIS-PM H.2](#)]. See [INA 101\(c\)\(1\)](#).
- [^] See Volume 12, Citizenship and Naturalization, Part J, Oath of Allegiance [[12 USCIS-PM J](#)].
- [^] See [INA 322\(d\)](#).

Technical Update - Implementation of Policy Guidance on Defining “Residence” in Statutory Provisions Related to Citizenship

October 29, 2019

This technical update incorporates into Volume 12 the policy guidance that U.S. Citizenship and Immigration Services (USCIS) announced August 28, 2019 addressing requirements for “residence” in statutory provisions related to citizenship. This guidance became effective October 29, 2019.

[Read More](#)

AFFECTED SECTIONS

[12 USCIS-PM H](#) - Part H - Children of U.S. Citizens

[12 USCIS-PM I](#) - Part I - Military Members and their Families

Technical Update - Replacing the Term “Foreign National”

October 08, 2019

This technical update replaces all instances of the term “foreign national” with “alien” throughout the Policy Manual as used to refer to a person who meets the definition provided in INA 101(a)(3) [“any person not a citizen or national of the United States”].

[Read More](#)

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AFFECTED SECTIONS

[1 USCIS-PM - Volume 1 - General Policies and Procedures](#)

[2 USCIS-PM - Volume 2 - Nonimmigrants](#)

[6 USCIS-PM - Volume 6 - Immigrants](#)

[7 USCIS-PM - Volume 7 - Adjustment of Status](#)

[8 USCIS-PM - Volume 8 - Admissibility](#)

[9 USCIS-PM - Volume 9 - Waivers](#)

[10 USCIS-PM - Volume 10 - Employment Authorization](#)

[11 USCIS-PM - Volume 11 - Travel and Identity Documents](#)

[12 USCIS-PM - Volume 12 - Citizenship and Naturalization](#)

POLICY ALERT - Defining “Residence” in Statutory Provisions Related to Citizenship

August 28, 2019

U.S. Citizenship and Immigration Services (USCIS) is issuing policy guidance in the USCIS Policy Manual to address requirements for “residence” in statutory provisions related to citizenship, and to rescind previous guidance regarding children of U.S. government employees and members of the U.S. armed forces employed or stationed outside the United States. This guidance becomes effective October 29, 2019.

[Read More](#)

AFFECTED SECTIONS

[12 USCIS-PM H - Part H - Children of U.S. Citizens](#)

[12 USCIS-PM I - Part I - Military Members and their Families](#)

POLICY ALERT - Acquisition of U.S. Citizenship for Children Born Out of Wedlock

April 18, 2018

U.S. Citizenship and Immigration Services (USCIS) is updating policy guidance to clarify certain requirements for U.S. citizenship for children born outside the United States and out of wedlock under INA 301 and 309. USCIS is making conforming edits to the USCIS nationality charts.

[Read More](#)

AFFECTED SECTIONS

12 USCIS-PM H.3 - Chapter 3 - United States Citizens at Birth (INA 301 and 309)

POLICY ALERT - Effect of Assisted Reproductive Technology (ART) on Immigration and Acquisition of Citizenship Under the Immigration and Nationality Act (INA)

October 28, 2014

U.S. Citizenship and Immigration Services (USCIS) is issuing policy guidance relating to the use of Assisted Reproductive Technology (ART).

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AFFECTED SECTIONS

12 USCIS-PM H - Part H - Children of U.S. Citizens

12 USCIS-PM H.2 - Chapter 2 - Definition of Child and Residence for Citizenship and Naturalization

12 USCIS-PM H.3 - Chapter 3 - United States Citizens at Birth (INA 301 and 309)

12 USCIS-PM H.4 - Chapter 4 - Automatic Acquisition of Citizenship after Birth (INA 320)

12 USCIS-PM H.5 - Chapter 5 - Child Residing Outside of the United States (INA 322)

POLICY ALERT - Comprehensive Citizenship and Naturalization Policy Guidance

January 07, 2013

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

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AFFECTED SECTIONS

12 USCIS-PM - Volume 12 - Citizenship and Naturalization

Current as of November 21, 2019