

# Who is Eligible to Naturalize?

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# Naturalization: General Requirements

- Be at least 18 years old
- Have maintained LPR status for at least 5 years (3 years if married to a US Citizen)
- Be physically present in the US for at least  $\frac{1}{2}$  the requisite time
- Reside for at least 3 months in the state or USCIS district in which application is filed
- Have Good Moral Character
- Be able to read, write, and understand basic English
- Demonstrate sufficient knowledge of US history and civics by passing a test
- Swear loyalty to the US in an oath of allegiance

# Age Requirement

- Aren't considered able to take oath if under 18 y/o
- Children under 18 y/o living with a USC parent “derive” citizenship automatically. Can apply for certificate of citizenship (N-600) or passport immediately

# Residency Requirement pt. 1

- Date on green card following “resident since” must be 4 years and 9 months ago (or more) UNLESS-
- Person obtained GC through marriage- THEN:
- Can apply after 3 years of residency with proof of marriage (and they must still be married to spouse in good faith) and proof of spouses citizenship (of at least 3 years)

# Residency Requirement pt. 2

- Must establish that the US is primary residence
- If aggregate of time spent outside US in the requisite is over 912 days- person is ineligible. (more than half of 5 years)
- If person has been outside of US between 6 months and 1 year for almost anything other than caring for sick family member (because no one else would)- they are ineligible until that travel is longer than 5 years ago. Must include proof.
- If person has been outside of country over 1 year- they must wait 4 years and 1 day from the day they arrived back in the US to apply.

# Residency Requirement pt. 3

- Must've lived in state person applies through for at least 3 months

# Bars to Naturalization

- Murder conviction
- Aggravated felony conviction after 11/29/1990
- Final order of deportation
- Pending removal OR ANY criminal proceedings that occur during application process
- Armed forces deserter

# Good Moral Character

- INA §316(a)(3)
- Applicant must establish that he/she has been a person of GMC during the required period (5 years ago) as LPR preceding the naturalization application.
- USCIS may look beyond this period
- There are both statutory and regulatory bars

# Good Moral Character: Statutory Bars (INA §101(f))

- Conviction or admission to essential elements of crime involving moral turpitude
- Conviction or admission to essential elements of controlled substance crime
- Multiple criminal violations
- Controlled substance trafficking
- Prostitution
- Commercialized vice
- Alien smuggling (does not require conviction)
- Practicing polygamy
- Habitual drunkard
- Income principally derived from illegal gambling
- Applicant has given false testimony to USCIS for any immigration benefit
- Certain applicants who have been previously removed from the US

# Good Moral Character: Regulatory Bars (8 CFR §316.10(b)(3))

- Adultery causing marriage to break up
- Failure to support dependents
- Failure to pay income tax
- Willful failure to register with Selective Service
  - Requirement for all males ages 18-25
  - If applicant failed to register and is 26 or older, must wait until 31<sup>st</sup> birthday to apply
  - Can register and find registration number at [www.sss.gov](http://www.sss.gov)

# English Requirement

- INA §312(a)(1)
- Interview will be conducted in English
- Must be able to read and write simple words and phrases
- Interviewer will repeat and rephrase until confident that applicant does or does not have a reasonable grasp on the English language

# English Requirement Exemptions

- The 70s (INA §312(b)(2))
  - 50/20 rule
  - 55/15 rule
  - Must meet these requirements on the date you sign and submit your naturalization application
  - Must bring own interpreter
- 65/20 rule (INA §312(b)(3))
- Medical exemption (INA §312(b)(1))
  - Must file N-648 Medical Certification for Disability Exemption with application

# N-648

- Permanent disability, lasting or expected to last at least 12 months
- Type of disability that prevents you from learning English or civics
- Unable to pass the tests even with reasonable accommodations
- A medical doctor (MD), osteopath (DO), or psychologist (PhD) must be able to diagnose your kind of disability with methods of diagnosis that are recognized by medical professionals
- The disability cannot be the result of taking illegal drugs

# Civics Exam

- Questions about US History and Civics
- 10 questions from a list of 100 questions and answers which are publically available
- If exempt from English exam, civics questions will be asked in native language
- Same waiver possibility as with English exam

# Attachment to Principles of the Constitution

- Oath includes swearing to bear arms and perform non-combatant service or work of national importance
- Other requirements may be waived for:
  - Children who cannot understand the meaning
  - Applicants with religious conviction that prevent them from swearing to bear arms (modified oath)
  - Applicants with a disability waiver who cannot understand the meaning

# Naturalization: Benefits

- Right to vote in elections
- Protection from deportation
- Ability to petition for family members
- Shorter wait time for beneficiaries
- Qualification for certain govt benefits
- Ability to remain outside the US for any amount of time
- Qualification for public office, public jobs, public contracts

# Naturalization: Risks

- Applicant can be placed in removal proceedings if:
  - Inadmissible when received LPR status
  - They have certain criminal convictions
  - Abandonment of US residence (out of country over 1 year or half of 5 years)
- Losing other citizenship if home country does not recognize dual citizenship
- Property ownership & tax consequences

# Eligibility for Naturalization

**Reminder: seek legal help with complicated questions/ concerns about an application!**

For general questions:

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