



U.S. Citizenship and Immigration Services

Volume 12: Citizenship and Naturalization Summary of New and Updated Policies

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

The tables below identify new policies and clarifications on existing policies incorporated into specific parts of Volume 12 of the USCIS Policy Manual.

Part B, Naturalization Examination

Chapter & Section	Topic	Summary of Policy
Chapter 6: USCIS Hearing and Judicial Review B. Review of Timely Filed Hearing Request	Administering English and civics tests at USCIS hearings on N-400 denials	Establishes policy to administer any portion of the English or civics tests at an N-336 hearing that the applicant previously failed during interviews on his or her naturalization application. Officers provide only one opportunity to pass failed portion of the tests at the hearing.

3. English and Civics Testing at Hearing

In hearings involving naturalization applications denied on the basis of failing to meet the educational requirements (English and civics),¹ officers must administer any portion of the English or civics tests that the applicant previously failed. Officers provide only one opportunity to pass the failed portion of the tests at the hearing.

Part D, General Naturalization Requirements

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Chapter & Section	Topic	Summary of Policy
Chapter 3: Continuous Residence E. Residence in the Commonwealth of the Northern Mariana Islands	Calculating residence and physical presence while residing in Commonwealth of the Northern Mariana Islands (CNMI)	Policy explains USCIS counts residence in the CNMI on or after November 28, 2009, as continuous residence and physical presence within the United States for naturalization purposes. In addition, policy explains that lawful permanent residents do not abandon their LPR status solely by residing in the CNMI. Guidance complies with 2009 CNMI legislation.

[E. Residence in the Commonwealth of the Northern Mariana Islands](#)

As of November 28, 2009, the Commonwealth of the Northern Mariana Islands (CNMI) is defined as a State in the United States for naturalization purposes.² Previously, residence in the CNMI only counted as residence in the United States for naturalization purposes for an alien who was an immediate relative of a U.S. citizen residing in the CNMI.

All other noncitizens, including any non-immediate relative lawful permanent residents (LPR), were considered to be residing outside of the United States for immigration purposes. Therefore, some LPRs residing in the CNMI, before the Consolidated Natural Resources Act of 2008 (CNRA) was enacted, were considered to have abandoned their lawful permanent resident status if they continuously lived in the CNMI.

Under the current law, USCIS no longer considers lawful permanent residents to have abandoned their LPR status solely by residing in the CNMI. This provision is retroactive and provides for the restoration of permanent resident status. However, the provision did not provide that the residence would count towards the naturalization continuous and physical presence requirements. Therefore, USCIS will only count residence in the CNMI on or after November 28, 2009, as continuous residence within the United States for naturalization purposes.³

Part G, Spouses of U.S. Citizens

Chapter & Section	Topic	Summary of Policy
Chapter 2: Marriage and Marital Union for Naturalization	Clarification of “valid marriage” and “living in marital union” requirements for	Policy explains difference between a legally valid marriage and “living in marital union” for purposes of naturalization, and the specific corresponding

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D. Marital Union and Living in Marital Union	naturalization	requirements under the respective spousal provisions.
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1. Married and Living in Marital Union

In general, all naturalization applicants filing on the basis of marriage to a U.S. citizen must be the spouse of a U.S. citizen from the time of filing the Application for Naturalization until the applicant takes the Oath of Allegiance. In addition, some spousal naturalization provisions require that the applicant “live in marital union” with his or her citizen spouse prior to filing the Application for Naturalization.⁴ USCIS considers an applicant to “live in marital union” with his or her citizen spouse if the applicant and the citizen actually reside together.

An applicant under the special provisions for spouses is ineligible for naturalization if

- The applicant is not residing with his or her United States citizen spouse at the time of filing or during the time in which the applicant is required to be living in marital union with the citizen spouse; or
- If at any time prior to taking the Oath of Allegiance, the spousal relationship is terminated or altered to such an extent that neither the applicant nor the United States citizen spouse can be considered to be residing together as husband and wife.

There are limited circumstances where an applicant may be able to establish that he or she is living in marital union with his or her citizen spouse even though the applicant does not actually reside with the citizen spouse.⁵

In all cases where it is applicable, the burden is on the applicant to establish that he or she has lived in marital union with his or her U.S. citizen spouse for the required period of time.⁶

Part G, Spouses of U.S. Citizens		
Chapter & Section	Topic	Summary of Policy
Chapter 4: Spouses of U.S. Citizens Employed Abroad A. General Eligibility for Spouses of	Calculating good moral character (GMC) period for spouses of a U.S. citizens employed abroad	Establishes policy to specify statutory period for GMC for spouses of U.S. citizens employed abroad. Such period is not specified in corresponding statute and regulations. Policy establishes GMC period three years prior to filing application until time of naturalization.

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[U.S. Citizens
Employed
Abroad](#)

A. General Eligibility for Spouses of U.S. Citizens Employed Abroad

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Demonstrate good moral character for at least three years prior to filing the application until the time of naturalization.⁷

Attachment to the principles of the U.S. Constitution and well-disposed to the good order and happiness of the U.S. during all relevant periods under the law.

The period for showing good moral character (GMC) for spouses employed abroad is not specifically stated in the corresponding statute and regulation.⁸ USCIS follows the statutory three-year GMC period preceding filing (until naturalization) specified for spouses of U.S. citizens residing in the United States.⁹

Part G, Spouses of U.S. Citizens

Chapter & Section	Topic	Summary of Policy
Chapter 4: Spouses of U.S. Citizens Employed Abroad D. Calculating Period “Regularly Stationed Abroad”	Calculating period U.S. citizen spouse is “regularly stationed abroad” from date of filing for naturalization under INA 319(b)	Establishes policy to calculate the period of citizen spouse’s qualifying employment abroad from the time applicant spouse properly files for naturalization under INA 319(b). The corresponding statute and regulations do not specify when to begin calculating the employment period abroad.

D. Calculating Period “Regularly Stationed Abroad”

A person applying for naturalization based on marriage to a U.S. citizen employed abroad must establish that his or her citizen spouse is regularly stationed abroad. A citizen spouse is regularly stationed abroad if he or she engages in qualifying employment abroad for at least one year.¹⁰ Both the statute and its corresponding regulation are silent on when to begin calculating the specified period regularly stationed abroad.¹¹

As a matter of policy, USCIS calculates the period of qualifying employment abroad from the time the applicant spouse properly files for naturalization.¹² However, this policy does not alter the requirement that the applicant must intend to reside abroad with the U.S. citizen spouse after naturalization.¹³

Accordingly, the spouse of the U.S. citizen employed abroad may naturalize if his or her U.S. citizen's qualifying employment abroad is scheduled to last for at least one year at the time of filing, even if less than one year of such employment remains at the time of the naturalization interview or Oath of Allegiance provided that the spouse remains employed abroad at the time of naturalization.

The burden is on the applicant to establish that his or her U.S. citizen's qualifying employment abroad is scheduled to last for at least one year from the time of filing.

Part H, Children of U.S. Citizens		
Chapter & Section	Topic	Summary of Policy
Chapter 3: United States Citizens at Birth (INA 301 and 309) F. Decision and Oath of Allegiance	Waiving of Oath of Allegiance for children under 14 years of age	USCIS has the authority to waive the taking of the Oath of Allegiance if USCIS determines that a person is unable to understand its meaning. This policy establishes that USCIS considers a child under 14 years of age as generally being unable to understand the meaning of the Oath of Allegiance. Accordingly, USCIS will waive the requirement of taking Oath of Allegiance for all children younger than 14 years of age.
Chapter 4: Automatic Acquisition of Citizenship after Birth (INA 320) G. Decision and Oath of Allegiance	Waiving of Oath of Allegiance for children under 14 years of age	
Chapter 5: Child Residing Outside of the United States (INA 322) H. Decision and Oath of Allegiance	Waiving of Oath of Allegiance for children under 14 years of age	

NOTE: Language from chapter 3 excerpt below is same language found in corresponding sections in chapters 4 and 5. The only difference is that "Application for Certificate of Citizenship" in first paragraph is replaced with "Application for Citizenship and Issuance of Certificate Under Section 322 (Form N-600K)" in chapter 5.

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.¹⁴

However, the INA permits USCIS to waive the taking of the Oath of Allegiance if USCIS determines the person is unable to understand its meaning.¹⁵ 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.

Part K, Certificates of Citizenship and Naturalization

Chapter & Section	Topic	Summary of Policy
Chapter 4: Replacement of Certificate of Citizenship or Naturalization	Issuance of replacement Certificates of Naturalization to reflect new gender	Policy establishes that an applicant who has legally changed his or her gender may apply for a replacement Certificate of Naturalization reflecting the new gender so long as the change of gender on the certificate does not affect the validity of a marriage under the Defense of Marriage Act (DOMA).

Chapter 4: Replacement of Certificate of Citizenship or Naturalization

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Requests to update a certificate based on a name change due to marriage or divorce may also be submitted to USCIS.¹⁶ In addition, an applicant who has legally changed his or her gender may apply for a replacement certificate reflecting the new gender.¹⁷ A request to change the gender on a certificate may also affect the marital status already listed on the certificate. Accordingly, any request to change the gender on a certificate that may affect the validity of a marriage under the Defense of Marriage Act (DOMA)¹⁸ is elevated to USCIS headquarters.

¹ See [INA 312](#). See [8 CFR 312](#). See [Part E, English and Civics Testing and Exceptions](#).

² See [INA 101\(a\)\(36\)](#) and [INA 101\(a\)\(38\)](#). See [INA 101\(a\)\(36\)](#) and [INA 101\(a\)\(38\)](#). See [48 U.S.C. 1806\(a\)](#) and [48 U.S.C. 1806\(f\)](#). See section 705(b) of the Consolidated Natural Resources Act of 2008 (CNRA), Pub. L.110-229 ([48 U.S.C. 1806 note](#)).

³ See section 705(c) of the CNRA ([48 U.S.C. 1806 note](#)). See *Eche v. Holder*, ___ F.3d ___, 2012 (9th Cir. Sept. 11, 2012).

⁴See [INA 319\(a\)](#). See [8 CFR 319.1\(a\)\(3\)](#) and [8 CFR 319.1\(b\)](#).

⁵See guidance below on "Involuntary Separation" under the paragraph "Failure to be Living in Loss of Marital Union due to Separation."

⁶See [8 CFR 319.1\(b\)\(1\)](#).

⁷ See [INA 319\(a\)](#). See [8 CFR 319.1\(a\)\(7\)](#) and [8 CFR 319.2\(a\)\(5\)](#).

⁸ See [INA 319\(b\)](#). See [8 CFR 319.2\(a\)\(5\)](#).

⁹ See [INA 319\(a\)](#). See [8 CFR 319.1\(a\)\(7\)](#).

¹⁰ See [INA 319\(b\)\(1\)\(B\)](#) and [INA 319\(b\)\(1\)\(C\)](#). See [8 CFR 319.2\(a\)\(1\)](#). See [Section G, Application and Evidence](#).

¹¹ See [INA 319\(b\)\(1\)\(B\)](#) and [INA 319\(b\)\(1\)\(C\)](#). See [8 CFR 319.2\(a\)\(1\)](#).

¹² This policy is effective as of January 22, 2013, effective date of first publication of the [USCIS Policy Manual](#) and will not be applied retroactively.

¹³ See [8 CFR 319.2\(a\)\(4\)](#).

¹⁴ See [INA 337\(a\)](#). See [8 CFR 341.5\(b\)](#). See [Part J, Oath of Allegiance](#).

¹⁵ See [INA 337\(a\)](#). See [8 CFR 341.5\(b\)](#).

¹⁶ See [INA 343\(c\)](#).

¹⁷ See [Adjudicator's Field Manual \(AFM\) Chapter 10.22, Document Issuance Involving Status and Identity for Transgender Individuals](#).

¹⁸ The Defense of Marriage Act (DOMA), Pub. L. 104-199, 110 Stat. 2419 (Sept. 21, 1996). See [1 U.S.C. 7](#) and [28 U.S.C. 1738C](#).

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[Plug-ins](#)