

PART H – CHILDREN OF U.S. CITIZENS

Chapter 1: Purpose and Background

A. Purpose

United States laws allow for children to acquire U.S. citizenship other than through birth in the United States.¹ Persons who were born outside of the United States to a U.S. citizen parent or parents may acquire or derive U.S. citizenship at birth. Persons may also acquire citizenship after birth, but before the age of 18, through their U.S. citizen parents.

Previously, acquisition of citizenship generally related to those persons who became U.S. citizens at the time of birth, and derivation of citizenship to those who became U.S. citizens after birth due to the naturalization of a parent.

In general, current nationality laws only refer to acquisition of citizenship for persons who automatically become U.S. citizens either at the time of birth or after. In general, a person must meet the applicable definition of child at the time he or she acquires citizenship and must be under 18 years of age.

B. Background

The law in effect at the time of birth determines whether someone born outside the United States to a U.S. citizen parent or parents is a U.S. citizen at birth. In general, these laws require a combination of at least one parent being a U.S. citizen when the child was born and having lived in the United States for a period of time. In addition, children born abroad may become U.S. citizens after birth. Citizenship laws have changed extensively over time with two major changes coming into effect in 1978 and 2001.

Prior to the Act of October 10, 1978, U.S. citizens who had acquired citizenship through birth abroad to one citizen parent had to meet certain physical presence requirements in order to retain citizenship.² This legislation removed all retention requirements. Prior to the Child Citizenship Act of 2000 (CCA), effective February 27, 2001, the INA had two provisions for derivation of citizenship.³ The CCA removed one provision and revised the other making it the only method for children under 18 years of age in the United States to automatically acquire citizenship after birth.⁴

C. Table of General Provisions

¹ See [INA 301](#), [INA 320](#), and [INA 322](#).

² See Act of October 10, 1978, Pub. L. 95-432, 92 Stat. 1046.

³ See the Child Citizenship Act of 2000, Sec. 101, Pub. L. 106-395, 114 Stat 1631, October 30, 2000 (Effective February 27, 2001).

⁴ The CCA amended [INA 320](#) and removed INA 321 to create only one statutory provision and method for children in the United States to automatically acquire citizenship after birth. See [INA 320](#). See [Chapter 4, Automatic Acquisition of Citizenship after Birth \(INA 320\)](#).

A child born outside of the United States may acquire U.S. citizenship through various ways. The table below serves as a quick reference guide to the acquisition of citizenship provisions.⁵ The chapters that follow the table provide further guidance.

General Provisions for Acquisition of Citizenship for Children Born Abroad			
INA Section	Status of Parents	Residence or Physical Presence Requirements	Child is a U.S. Citizen
301(c)	Both parents are U.S. citizens	At least one U.S. citizen parent has resided in the United States or outlying possession prior to child's birth	At Birth
301(d)	One parent is a U.S. citizen; other parent is U.S. national	U.S. citizen parent was physically present in the United States or its outlying possession for one year prior to child's birth	At Birth
301(f)	Unknown parentage	Child is found in the United States while under 5 years of age	At Birth
301(g)	One parent is a U.S. citizen; other parent is a foreign national	U.S. citizen parent was physically present in United States or its outlying possessions for at least 5 years (2 after age 14) prior to child's birth	At Birth
301(h)	Mother is a U.S. citizen and father is a foreign national	U.S. citizen mother resided in the United States prior to child's birth	At Birth (only applies to birth prior to 1934)
309(a)	Out of wedlock birth, claiming citizenship through father	Requirements depend on applicable provision: INA 301(c) , (d) , (e) , or (g)	At Birth (Out of wedlock)
309(c)	Out of wedlock birth, claiming citizenship through mother	U.S. citizen mother physically present in the U.S. or its outlying possessions for one year prior to the child's birth	At Birth (for birth after December 23, 1952)
320	At least one parent is a U.S. citizen (through birth or naturalization)	Child resides in the United States as a lawful permanent resident	At Time Criteria is Met

⁵ Except for the reference to INA 321, the references in the table are to the current statutory requirements for citizenship. Previous versions of the law may apply.

General Provisions for Acquisition of Citizenship for Children Born Abroad			
INA Section	Status of Parents	Residence or Physical Presence Requirements	Child is a U.S. Citizen
321 Repealed by CCA	Both parents naturalize, or in certain cases, one parent naturalizes	Child resides in the United States as a lawful permanent resident	At Time Criteria is Met
322	At least one parent is a U.S. citizen (through birth or naturalization)	Child resides outside of the United States and child’s parent (or grandparent) was physically present in the U.S. or its outlying possessions for at least 5 years (2 after age 14)	At Time Oath is Administered

D. 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 320](#); [8 CFR 320](#) – Children residing permanently in the United States
- [INA 322](#); [8 CFR 322](#) – Children residing outside the United States

Chapter 2: Definition of Child for Citizenship and Naturalization

A. Definition of Child

The definition of “child” for citizenship and naturalization differs from the definition used for other parts of the INA.⁶ The INA provides two different definitions of “child.”

- One definition of child applies to approval of visa petitions, issuance of visas, and similar issues.⁷
- The other definition of child applies to citizenship and naturalization.⁸

The most significant difference between the two definitions of child is that a stepchild is not included in the definition relating to citizenship and naturalization. Although a stepchild may be the stepparent’s “child” for purposes of visa issuance, the stepchild is not the stepparent’s “child” for purposes of citizenship and naturalization. A stepchild is ineligible for citizenship or naturalization through the U.S. citizen stepparent, unless the stepchild is adopted and the adoption meets certain requirements.⁹

In general, a child for the citizenship and naturalization provisions is:

⁶ See [INA 101\(b\)](#) and [INA 101\(c\)](#).

⁷ See [INA 101\(b\)](#).

⁸ See [INA 101\(c\)](#).

⁹ See [Section C, Adopted Child](#).

- An unmarried person under 21 years of age; and
- The biological, legitimated,¹⁰ or adopted son or daughter of a U.S. citizen.

In addition to meeting the definition of child, the child must also meet the particular requirements of the specific citizenship or naturalization provision, which may include references to birth in wedlock or out of wedlock, and which may require that certain conditions be met by 18 years of age, instead of 21.¹¹

B. Legitimated Child¹²

The law of the child's residence or domicile, or the law of the father's residence or domicile, is the relevant law to determine whether a child has been legitimated. If the father or child had various residences before the child reached 18 or 21 years of age (depending on the applicable provision), then all the relevant laws of the places of residence must be considered.

A child is considered the legitimated child of his or her parent if:

- The child is legitimated in the United States or abroad under the law of the child's residence or domicile, or under the law of the child's father's residence or domicile;¹³
- The child is legitimated as such before he or she reaches 16 years of age (except for certain cases where the child may be legitimated before reaching 18 years of age);¹⁴ and
- The child is in the legal custody of the legitimating parent or parents at the time of the legitimation.¹⁵

An officer reviews the specific facts of a case when determining whether a child has been legitimated accordingly and to determine the appropriate citizenship provision.

C. Adopted Child

An adopted child means that the child has been adopted through a full, final, and complete adoption.¹⁶ This includes certain siblings of adopted children who are permitted to be adopted while under 18 years of age.¹⁷

¹⁰ A child can be legitimated under the laws of the child's residence or domicile, or under the law of the father's residence or domicile. See [INA 101\(c\)](#). A person's "residence" is his or her place of general abode and principal, actual dwelling place without regard to intent. A person's "domicile" refers to a person's legal permanent home and principal establishment, to include an intent to return if absent. In most cases, a person's residence is the same as a person's domicile.

¹¹ See [Chapter 3, United States Citizens at Birth \(INA 301 and 309\)](#). See [Chapter 4, Automatic Acquisition of Citizenship after Birth \(INA 320\)](#). See [Chapter 5, Child Residing Outside of the United States \(INA 322\)](#).

¹² See [INA 101\(c\)](#).

¹³ See [INA 101\(a\)\(33\)](#), which defines the term "residence" as the "place of general abode." The place of general abode of a person means his or her "principal, actual dwelling place in fact, without regard to intent."

¹⁴ See [INA 309](#). See [INA 101\(b\)\(1\)\(E\)\(ii\)](#) and [INA 101\(b\)\(1\)\(F\)\(ii\)](#).

¹⁵ See [INA 101\(c\)\(1\)](#).

¹⁶ See [8 CFR 320.1](#). See [8 CFR 322.1](#).

¹⁷ See [INA 101\(b\)\(1\)\(E\)\(ii\)](#).

A child is an adopted son or daughter of his or her U.S. citizen parent if the following conditions are met:

- The child is adopted in the United States or abroad;
- The child is adopted before he or she reaches 16 years of age (except for certain cases where the child may be adopted before reaching 18 years of age);¹⁸ and
- The child is in the legal custody of the adopting parent or parents at the time of the adoption.¹⁹

In general, the adoption must:

- Be valid under the law of the country or place granting the adoption;
- Create a legal permanent parent-child relationship between a child and someone who is not already the child's legal parent; and
- Terminate the legal parent-child relationship with the prior legal parent(s).²⁰

D. Orphan²¹

In general, the definition for adopted children applies to adopted orphans. USCIS, however, does not consider an orphan adopted if any of the following conditions apply:

- The foreign adoption was not full and final;
- The foreign adoption was defective; or
- An unmarried U.S. citizen parent or a U.S. citizen parent and spouse jointly did not see and observe the child in person prior to or during the foreign adoption proceedings.²²

If the orphan is not considered adopted:

- The child must be must be readopted in the United States; or
- The child must be adopted while under 16 years of age and must have been residing in the legal custody of the adopting parent or parents for at least two years.²³

¹⁸ See [INA 101\(b\)\(1\)\(E\)\(ii\)](#) and [INA 101\(b\)\(1\)\(F\)\(ii\)](#).

¹⁹ See [INA 101\(c\)\(1\)](#).

²⁰ See [Adjudicator's Field Manual, Chapter 21.15, Adoption as a Basis for Immigration Benefits](#).

²¹ See [INA 101\(b\)\(1\)](#).

²² See [8 CFR 320.1](#). See [8 CFR 322.1](#).

²³ See [INA 101\(b\)\(1\)\(E\)](#).

In all cases, the condition that the child must have been residing in the legal custody of the adopting parent or parents is not required if the child has been battered or subject to extreme cruelty by the adopting parent or by a family member of the adopting parent residing in the same household.

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.²⁴

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

- One parent 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.²⁵

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.²⁶

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.²⁷ The following sections provide the current law.

B. Child Born in Wedlock²⁸

1. Child of Two U.S. Citizen Parents²⁹

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

²⁴ 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](#).

²⁵ Any time spent abroad in the U.S. armed forces or other qualifying organizations counts towards that physical presence requirement. See [INA 301\(g\)](#).

²⁶ The Act of October 10, 1978, Pub. L. 95-432, 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.

²⁷ Officers should use the Nationality Charts to assist with the adjudication of these applications.

²⁸ See [INA 301](#). See [Nationality Chart 1](#).

²⁹ See [INA 301\(c\)](#).

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- 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. National³⁰

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 Foreign National Parent³¹

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 foreign national 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 Foreign National Father³²

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 a foreign national;
- 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**³³

Child of a U.S. Citizen Father

³⁰ See [INA 301\(d\)](#).

³¹ See [INA 301\(g\)](#).

³² See [INA 301\(h\)](#).

³³ See [INA 309](#). See [Nationality Chart 2](#).

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The provisions listed above³⁴ for a child born in wedlock apply to a child born out of wedlock outside of the United States claiming citizenship through a U.S. citizen father if:

- 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 claiming citizenship through their fathers.

Child of a U.S. Citizen Mother

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

- The child was born after December 23, 1952;
- 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 outlying possession for one continuous year prior to the child's birth.³⁵

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.³⁶

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.³⁷

³⁴ See [INA 301\(c\)](#), [INA 301\(d\)](#), [INA 301\(e\)](#), and [INA 301\(g\)](#).

³⁵ See [INA 309\(c\)](#).

³⁶ See [8 CFR 341.1](#).

³⁷ See [8 CFR 341.1](#).

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.³⁸

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.³⁹ 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:

- Department of State Form FS-240 (Consular Report of Birth Abroad of a U.S. Citizen);
- Applicant's unexpired U.S. Passport issued initially for a full five or ten-year period; or
- Certificate of Naturalization of the applicant's parent or parents.⁴⁰

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.⁴¹

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.⁴² 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.⁴³ An applicant may file an appeal within 30 calendar days after service of the decision (33 days if the decision was mailed).

Chapter 4: Automatic Acquisition of Citizenship after Birth (INA 320)

³⁸ See [Section F, Decision and Oath of Allegiance](#). See [8 CFR 341.5\(b\)](#).

³⁹ See [8 CFR 341.2\(a\)\(2\)](#).

⁴⁰ See [8 CFR 341.2\(a\)](#).

⁴¹ See [INA 337\(a\)](#). See [8 CFR 341.5\(b\)](#). See [Part J, Oath of Allegiance, Chapter 2, The Oath of Allegiance](#).

⁴² See [INA 337\(a\)](#). See [8 CFR 341.5\(b\)](#).

⁴³ See [8 CFR 341.5\(d\)](#) and [8 CFR 103.3\(a\)](#).

A. General Requirements: Biological, Legitimated, or Adopted Child Automatically Acquiring Citizenship after Birth⁴⁴

A child born outside of the United States automatically becomes a U.S. citizen when all of the following conditions have been met on or after February 27, 2001:⁴⁵

- The child has at least one parent, including an adoptive parent⁴⁶ who is a U.S. citizen by birth or through naturalization;
- The child is under 18 years of age;
- The child is an LPR; and
- The child is residing in the United States in the legal and physical custody of the U.S. citizen parent.⁴⁷

A stepchild who has not been adopted does not qualify for citizenship under this provision.

B. Legal and Physical Custody of U.S. Citizen Parent

Legal custody refers to the responsibility for and authority over a child. For purposes of this provision, USCIS presumes that a U.S. citizen parent has legal custody of a child and recognizes that the parent has lawful authority over the child, absent evidence to the contrary, in all of the following scenarios:⁴⁸

- A biological child who currently resides with both biological parents who are married to each other, living in marital union, and not separated;
- A biological child who currently resides with a surviving biological parent, if the other parent is deceased;
- A biological child born out of wedlock who has been legitimated and currently resides with the parent;
- An adopted child with a final adoption decree who currently resides with the adoptive U.S. citizen parent;⁴⁹
- A child of divorced or legally separated parents where a court of law or other appropriate government entity has awarded primary care, control, and maintenance of the child to a parent under the laws of the state or country of residence.

⁴⁴ See [INA 320](#). See [Nationality Chart 3](#).

⁴⁵ February 27, 2001 is the effective date for these CCA amendments.

⁴⁶ If the requirements of [INA 101\(b\)\(1\)\(E\)](#), or [INA 101\(b\)\(1\)\(F\)](#), or [INA 101\(b\)\(1\)\(G\)](#) are met.

⁴⁷ See [INA 320](#). See [8 CFR 320.2](#).

⁴⁸ See [8 CFR 320.1](#).

⁴⁹ If the requirements of [INA 101\(b\)\(1\)\(E\)](#), or [INA 101\(b\)\(1\)\(F\)](#), or [INA 101\(b\)\(1\)\(G\)](#) are met.

USCIS considers a U.S. citizen parent who has been awarded “joint custody” to have legal custody of a child. There may be other factual circumstances under which USCIS may find the U.S. citizen parent to have legal custody to be determined on a case-by-case basis.

C. Acquisition of Citizenship Prior to Child Citizenship Act of 2000

The CCA applies only to those children born on or after February 27, 2001, or those who were under 18 years of age as of that date. Persons who were 18 years of age or older on February 27, 2001, do not qualify for citizenship under [INA 320](#). For such persons, the law in effect at the time the last condition was met before reaching 18 years of age is the relevant law to determine whether they acquired citizenship.⁵⁰

In general, former INA 321 applies to children who were already 18 years of age on February 27, 2001, but who were under 18 years of age in 1952, when the current Immigration and Nationality Act became effective.

In general, a child born outside of the United States to two foreign national parents, or one foreign national parent and one U.S. citizen parent who subsequently lost U.S. citizenship, acquires citizenship under former INA 321 if:

- The child’s parent(s) meet one of the following conditions:
 - Both parents naturalize;
 - One surviving parent naturalizes if the other parent is deceased;
 - One parent naturalizes who has legal custody of the child if there is a legal separation of the parents; or
 - The child’s mother naturalizes if the child was born out of wedlock and paternity has not been established by legitimation
- The child is under 18 years of age when his or her parent(s) naturalize; and
- The child is residing in the United States pursuant to a lawful admission for permanent residence at the time the parent(s) naturalized or thereafter begins to reside permanently in the United States.

As originally enacted in 1952, this section did not apply to adopted children of naturalized citizens.⁵¹ Beginning on October 5, 1978, however, INA 321 became generally applicable to an adopted child if the child was residing in the United States at the time the adoptive parent or parents naturalized and the child was in the custody of his or her adoptive parents pursuant to a lawful admission for permanent residence.⁵²

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

A person who automatically obtains citizenship 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

⁵⁰ See [Chapter 3, United States Citizens at Birth \(INA 301 and 309\)](#).

⁵¹ See INA of 1952, Sec. 321(b), 66 Stat. at 245.

⁵² See Sec. 5 of the Act of October 5, 1978, Pub. L. 95-417. The 1978 amendment limited this benefit to a child adopted while under 16 years of age. This restriction was removed in 1981 by the Act of December 21, 1981 (Pub. L. 97-116) but is also included in the definition of “child” in [INA 101\(c\)](#).

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.

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 biological parent, adoptive parent, or legal guardian must submit the application.⁵³

USCIS will issue 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.⁵⁴

E. Documentation and Evidence

The applicant must submit the following required documents unless such documents are already contained in USCIS administrative record or do not apply.⁵⁵

- The child's birth certificate or record.
- Marriage certificate of child's parents, if applicable.
- Proof of termination of any previous marriage of each parent if either parent was previously married and divorced or widowed, for example:
 - Divorce Decree, or
 - Death Certificate.
- Evidence of United States citizenship of parent:
 - Birth Certificate,
 - Naturalization Certificate,
 - FS-240, Consular Report of Birth Abroad,
 - A valid unexpired United States Passport, or
 - Certificate of Citizenship.
- Documents verifying legitimation according to the laws of the child's residence or domicile or father's residence or domicile if the child was born out of wedlock.
- Documentation of legal custody in the case of divorce, legal separation, or adoption.
- Copy of Permanent Resident Card or Alien Registration Receipt Card or other evidence of lawful permanent resident status, such as an I-551 stamp in a valid foreign passport or travel document issued by USCIS.

⁵³ See [8 CFR 320.3\(a\)](#).

⁵⁴ See [Section G, Decision and Oath of Allegiance](#). See [Part J, Oath of Allegiance, Chapter 2, The Oath of Allegiance](#).

⁵⁵ See [8 CFR 320.3\(b\)](#).

- Copy of the full, final adoption decree, if applicable:
 - For an adopted child (not orphans or Hague Convention adoptees), evidence that the adoption took place before the age of 16 (or 18, as appropriate) and that the adoptive parent(s) had custody of, and lived with, the child for at least two years.⁵⁶
 - For an adopted orphan, a copy of notice of approval of the orphan petition and supporting documentation for such petition (except the home study) or evidence that the child has been admitted for lawful permanent residence in the United States with the immigrant classification of IR-3 (Orphan adopted abroad by a U.S. citizen) or IR-4 (Orphan to be adopted by a U.S. citizen).⁵⁷
 - For a Hague Convention adoptee, a copy of the notice of approval of Convention adoptee petition and its supporting documentation, or evidence that the child has been admitted for lawful permanent residence in the United States with the immigrant classification of IH-3 (Hague Convention Orphan adopted abroad by a U.S. citizen) or IH-4 (Hague Convention Orphan to be adopted by a U.S. citizen).⁵⁸
 - If the child was admitted as an LPR as an orphan or Hague Convention adoption⁵⁹ (this evidence may already be in the child’s A-file).
- Evidence of all legal name changes, if applicable, for the child and U.S. citizen parent.

An applicant does not need to submit documents that were submitted in connection with:

- An immigrant visa application retained by the American Consulate for inclusion in the immigrant visa package; or
- An immigrant petition or application and included in a USCIS administrative file.

If necessary, an officer may continue the application to request additional documentation to make a decision on the application.

F. 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 parents if the application is filed on behalf of

⁵⁶ See [INA 101\(b\)\(1\)\(E\)](#). See [Chapter 2, Definition of Child for Citizenship and Naturalization, Section C, Adopted Child](#).

⁵⁷ If admitted as an IR-4 because there was no adoption abroad, the parent(s) must have completed the adoption in the United States. If admitted as an IR-4 because the parent(s) obtained the foreign adoption without having seen the child, the parent(s) must establish that they have either “readopted” the child or obtained recognition of the foreign adoption in the State of residence (this requirement can be waived if there is a statute or precedent decision that clearly shows that the foreign adoption is recognized in the State of residence). See [8 CFR 320.1](#).

⁵⁸ If admitted as an IH-4, the parent(s) must have completed the adoption in the United States.

⁵⁹ See [INA 101\(b\)\(1\)](#).

a child under 18 years of age.⁶⁰ 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 required documentation is submitted along with the application.⁶¹

G. 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.⁶²

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.⁶³ 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.⁶⁴ An applicant may file an appeal within 30 calendar days after service of the decision (33 days if the decision was mailed).

Chapter 5: Child Residing Outside of the United States (INA 322)

A. General Requirements: Biological, Legitimated, or Adopted Child Residing Outside the United States⁶⁵

The CCA amended the INA to cover foreign-born children who did not automatically acquire citizenship under INA 320 and who reside outside the United States with a U.S. citizen parent.⁶⁶

A biological, legitimated, or adopted child who regularly resides outside of the United States is eligible for naturalization if all of the following conditions have been met:

- The child has at least one U.S. citizen parent by birth or through naturalization, (including an adoptive parent).⁶⁷

⁶⁰ See [8 CFR 320.4](#).

⁶¹ See [8 CFR 341.2](#). See [Section E, Documentation and Evidence](#).

⁶² See [8 CFR 320.5\(a\)](#) and [8 CFR 337.1](#). See [INA 337](#). See [Part J, Oath of Allegiance, Chapter 2, The Oath of Allegiance](#).

⁶³ See [INA 337\(a\)](#). See [8 CFR 341.5\(b\)](#).

⁶⁴ See [8 CFR 320.5\(b\)](#) and [8 CFR 103.3\(a\)](#).

⁶⁵ See [Nationality Chart 4](#).

⁶⁶ See [INA 322](#).

⁶⁷ Adoptive parent must meet requirements of either [INA 101\(b\)\(1\)\(E\)](#), [INA 101\(b\)\(1\)\(F\)](#), or [INA 101\(b\)\(1\)\(G\)](#).

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- The child's U.S. citizen parent or citizen grandparent meets certain physical presence requirements.⁶⁸
- The child is under 18 years of age.
- The child is residing outside of the United States in the legal and physical custody of the U.S. citizen parent, or a person who does not object to the application if the U.S. citizen parent is deceased.
- The child is lawfully admitted, physically present, and maintaining a lawful status in the United States at the time the application is approved and time of naturalization.

There are certain exceptions to these requirements for children of U.S. citizens in the U.S. armed forces accompanying their parent abroad on official orders.

B. Eligibility to Apply on the Child's Behalf

Typically, a child's U.S. citizen parent files a Certificate of Citizenship application on the child's behalf. If the U.S. citizen parent has died, the child's citizen grandparent or the child's U.S. citizen legal guardian may file the application on the child's behalf within five years of the parent's death.⁶⁹

C. Physical Presence of the U.S. Citizen Parent or Grandparent⁷⁰

1. Physical Presence of Child's U.S. Citizen Parent

A child's U.S. citizen parent must meet the following physical presence requirements:

- The parent has been physically present in the United States or its outlying possessions for at least five years; and
- The parent met such physical presence for at least 2 years after he or she reached 14 years of age.

A parent's physical presence is calculated in the aggregate and includes time accrued in the United States during periods when the parent was not a U.S. citizen.

2. Exception for U.S. Citizen Member of the U.S. Armed Forces

The child's U.S. citizen service member parent may count any period of time he or she has resided abroad on official orders as physical presence in the United States.⁷¹

⁶⁸ See [Section C, Physical Presence of U.S. Citizen Parent or Grandparent](#).

⁶⁹ As of November 2, 2002, a U.S. citizen grandparent or U.S. citizen legal guardian became eligible to apply for naturalization under this provision on behalf of a child. See the 21st Century Department of Justice Appropriations Authorization Act for Fiscal 2002, Pub. L. 107-273 (November 2, 2002), which amended [INA 322](#) to permit U.S. citizen grandparents or U.S. citizen legal guardians to apply for naturalization on behalf of a child if the child's U.S. citizen parent has died.

⁷⁰ See [INA 322\(a\)\(2\)](#). See [8 CFR 322.2\(a\)\(2\)](#).

3. Reliance on Physical Presence of Child's U.S. Citizen Grandparent

If the child's parent does not meet the physical presence requirement, the child may rely on the physical presence of the child's U.S. citizen grandparent to meet the requirement. In such cases, the officer first must verify that the citizen grandparent, the citizen parent's mother or father, is a U.S. citizen at the time of filing. If the grandparent has died, the grandparent must have been a U.S. citizen and met the physical presence requirements at the time of his or her death.

Like in the case of the citizen parent, the officer also must ensure that:

- The U.S. citizen grandparent has been physically present in the United States or its outlying possessions for at least five years; and
- The U.S. citizen grandparent met such physical presence for at least 2 years after he or she reached 14 years of age.

Like the citizen parent, a grandparent's physical presence is calculated in the aggregate and includes time accrued in the United States during periods when the grandparent was not a U.S. citizen.

D. Temporary Presence by Lawful Admission and Status in United States

1. Temporary Presence and Status Requirements

In most cases, the citizenship process for a child residing abroad cannot take place solely overseas.

- The child is required to be lawfully admitted to United States, in any status, and be physically present in the United States;⁷²
- The child is required to maintain the lawful status that he or she was admitted under while in the United States;⁷³ and
- The child is required to take the Oath of Allegiance in the United States unless the oath requirement is waived.⁷⁴

2. Exception for Child of U.S. Citizen Service Member of the U.S. Armed Forces

Certain children of U.S. citizen members of the U.S. armed forces are not required to be lawfully admitted to or physically present in the United States.⁷⁵

⁷¹ See [Part I, Military Members and their Families, Chapter 9, Spouses, Children, and Surviving Family Benefits, Section C, Children of Military Members](#). See [INA 322\(d\)](#). See [8 CFR 322.2\(c\)](#).

⁷² See [INA 322\(a\)\(5\)](#). See [8 CFR 322.2\(a\)\(5\)](#).

⁷³ See [INA 322\(a\)\(5\)](#).

⁷⁴ See [INA 322\(b\)](#). See [Section G, Decision and Oath of Allegiance](#).

E. Application for Citizenship and Issuance of Certificate under Section 322 ([Form N-600K](#))

A U.S. citizen parent of a biological, legitimated, or adopted child born outside of the United States who did not acquire citizenship automatically may file an Application for Citizenship and Issuance of Certificate Under Section 322 ([Form N-600K](#)) for the child to become a U.S. citizen and obtain a Certificate of Citizenship. The application may be filed from outside of the United States.

If the U.S. citizen parent has died, the child's U.S. citizen grandparent or U.S. citizen legal guardian may submit the application, provided the application is filed not more than five years after the death of the U.S. citizen parent.⁷⁶

The child of a U.S. citizen member of the U.S. armed forces accompanying his or her parent abroad on official orders may be eligible to complete all aspects of the naturalization proceedings abroad. This includes interviews, filings, oaths, ceremonies, or other proceedings relating to citizenship and naturalization.

F. Documentation and Evidence

The applicant must submit the following required documents unless such documents are already contained in USCIS administrative record or do not apply.⁷⁷

- The child's birth certificate or record.
- Marriage certificate of child's parents, if applicable.
- Proof of termination of any previous marriage of each parent if either parent was previously married and divorced or widowed, for example:
 - Divorce Decree, or
 - Death Certificate.
- Evidence of United States citizenship of parent:
 - Birth Certificate,
 - Naturalization Certificate,
 - FS-240, Consular Report of Birth Abroad,
 - A valid unexpired United States Passport, or
 - Certificate of Citizenship.
- Documents verifying legitimation according to the laws of the child's residence or domicile or father's residence or domicile if the child was born out of wedlock.

⁷⁵ See [Part I, Military Members and their Families, Chapter 9, Spouses, Children, and Surviving Family Benefits](#). See [INA 322\(d\)](#). See [8 CFR 322.2\(c\)](#).

⁷⁶ See [8 CFR 322.3\(a\)](#).

⁷⁷ See [8 CFR 322.3\(b\)](#).

- Documentation of legal custody in the case of divorce, legal separation, or adoption.
- Documentation establishing that the U.S. citizen parent or U.S. citizen grandparent meets the required physical presence requirements, such as school records, military records, utility bills, medical records, deeds, mortgages, contracts, insurance policies, receipts, or attestations by churches, unions, or other organizations.
- Evidence that the child is present in the United States pursuant to a lawful admission and is maintaining such lawful status or evidence establishing that the child qualifies for an exception to these requirements as provided for children of members of the U.S. armed forces.⁷⁸ Such evidence may be presented at the time of interview when appropriate.
- Copy of the full, final adoption decree, if applicable
 - For an adopted child (not orphans or Hague Convention adoptees), evidence that the adoption took place before the age of 16 (or 18, as appropriate) and that the adoptive parents have had custody of, and lived with, the child for at least two years.⁷⁹
 - For an adopted orphan, a copy of notice of approval of the orphan petition and supporting documentation for such petition (except the home study) or evidence that the child has been admitted for lawful permanent residence in the United States with the immigrant classification of IR-3 (Orphan adopted abroad by a U.S. citizen) or IR-4 (Orphan to be adopted by a U.S. citizen).⁸⁰
 - For a Hague Convention adoptee applying under INA 322, a copy of the notice of approval of Convention adoptee petition and its supporting documentation, or evidence that the child has been admitted for lawful permanent residence in the United States with the immigrant classification of IH-3 (Hague Convention Orphan adopted abroad by a U.S. citizen) or IH-4 (Hague Convention Orphan to be adopted by a U.S. citizen).⁸¹
- Evidence of all legal name changes, if applicable, for the child, U.S. citizen parent, U.S. citizen grandparent or U.S. citizen legal guardian.

An applicant does not need to submit documents that were submitted in connection with:

⁷⁸ See [INA 322\(d\)\(2\)](#).

⁷⁹ See [INA 101\(b\)\(1\)\(E\)](#). See [Chapter 2, Definition of Child for Citizenship and Naturalization, Section C, Adopted Child](#).

⁸⁰ If admitted as an IR-4 because there was no adoption abroad, the parent(s) must have completed the adoption in the United States. If admitted as an IR-4 because the parent(s) obtained the foreign adoption without having seen the child, the parent(s) must establish that they have either “readopted” the child or obtained recognition of the foreign adoption in the State of residence (this requirement can be waived if there is a statute or precedent decision that clearly shows that the foreign adoption is recognized in the State of residence). See [8 CFR 320.1](#).

⁸¹ If admitted as an IH-4, the parent(s) must have completed the adoption in the United States.

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- An immigrant visa application retained by the American Consulate for inclusion in the immigrant visa package, or
- An immigrant petition or application and included in a USCIS administrative file.

If necessary, an officer may continue the application to request additional documentation to make a decision on the application.

G. Citizenship Interview and Waiver

In general, an applicant must appear in person for an interview before a USCIS officer after filing an Application for Citizenship and Issuance of Certificate Under Section 322 ([Form N-600K](#)). This includes the U.S. citizen parent or parents if the application is filed on behalf of a child under 18 years of age.⁸² USCIS, however, waives the interview requirement if all the required documentation necessary to establish the applicant's eligibility is already included in USCIS administrative records or if any of the following documentation is submitted along with the application.⁸³

H. 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 Citizenship and Issuance of Certificate Under Section 322 ([Form N-600K](#)), USCIS administers the Oath of Allegiance before issuing a Certificate of Citizenship.⁸⁴

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.⁸⁵ 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.⁸⁶ An applicant may file an appeal within 30 days of service of the decision.

Chapter 6: Special Provisions for the Naturalization of Children

⁸² See [8 CFR 320.4](#).

⁸³ See [8 CFR 341.2](#). See [Section F, Documentation and Evidence](#).

⁸⁴ See [8 CFR 322.5\(a\)](#) and [8 CFR 337.1](#). See [INA 337](#). See [Part J, Oath of Allegiance, Chapter 2, The Oath of Allegiance](#).

⁸⁵ See [INA 337\(a\)](#). See [8 CFR 341.5\(b\)](#).

⁸⁶ See [8 CFR 320.5\(b\)](#) and [8 CFR 103.3\(a\)](#).

A. Battered Children

The child of a U.S. citizen may naturalize if he or she obtained LPR status on the basis of having been battered or subjected to extreme cruelty by their citizen spouse or parent.⁸⁷

B. Surviving Child of Members of the Armed Forces

The surviving child of a member of the U.S. armed forces may naturalize if his or her citizen parent dies during a period of honorable military service.⁸⁸

⁸⁷ For a more thorough discussion of this provision, see [Part G, Spouses of U.S. Citizens, Chapter 3, Spouses of U.S. Citizens Residing in the United States, Section F, Eligibility for Persons Subjected to Battering or Extreme Cruelty](#).

⁸⁸ For a more detailed discussion of this provision, see [Part I, Military Members and their Families, Chapter 9, Spouses, Children, and Surviving Family Benefits, Section D, Naturalization for Surviving Spouse, Child, or Parent of Service Member \(INA 319\(d\)\)](#).