PART I – MILITARY MEMBERS AND THEIR FAMILIES

Chapter 1: Purpose and Background

A. Purpose

Service members, certain veterans of the U.S. armed forces, and certain military family members may be eligible to become citizens of the United States[1] under special provisions of the Immigration and Nationality Act (INA), to include expedited and overseas processing.

There are general requirements and qualifications that an applicant for naturalization must meet in order to become a U.S. citizen. These general requirements include:

- Good Moral Character (GMC)
- Residence and physical presence in the U.S.
- Knowledge of the English language
- Knowledge of U.S. government and history
- Attachment to the principles of the U.S. Constitution

The periods of residence and physical presence in the United States normally required for naturalization may not apply to military members and certain military family members. In addition, qualifying children of military members may not need to be present in the United States to acquire citizenship. Finally, qualifying members of the military and their family members may be able to complete the entire process from overseas.

B. Background

Special naturalization provisions for members of the U.S. armed forces date back at least to the Civil War.[2] Currently, the special naturalization provisions provide for expedited naturalization through military service during peacetime[3] or during designated periods of hostilities.[4] In addition, some provisions benefit certain relatives of members of the U.S. armed forces.

As of March 6, 1990, citizenship may be granted posthumously to service members who died as a direct result of a combat-related injury or disease.[5] Before this legislation, posthumous citizenship could only be granted through the enactment of private legislation for specific individuals.

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[1] The "United States" means the continental United States, Alaska, Hawaii, Puerto Rico, Guam, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands. See INA 101(a)(38).
[2] See Appendix 1 for a table listing legislation affecting military members and their families.
[3] See Chapter 2, One Year of Military Service during Peacetime (INA 328).
[4] See Chapter 3, Military Service during Hostilities (INA 329).
[5] See INA 329A. See the Posthumous Citizenship for Active-Duty Service Act of 1989, Pub. L. 101-249, 104 Stat. 94. Posthumous citizenship under INA 329A was not initiated until 2004 through subsequent legislation, thereby providing substantive benefits to survivors (the amendments were retroactive to 2001). See the National Defense Authorization Act for Fiscal Year 2004, Pub. L. 108-136, 117 Stat. 1392.

Congress and the President have continued to express interest in legislation to expand the citizenship benefits of non-U.S. citizens serving in the military since the events of September 11, 2001. Legislation to benefit service members and their family members has increased considerably since 2003.

1. Executive Order Designating Period since September 11, 2001 as a Period of Hostility

On July 3, 2002, then President, George W. Bush, officially designated by Executive Order the period beginning on September 11, 2001 as a "period of hostilities." The Executive Order triggered immediate naturalization eligibility for qualifying service members.[6]

At the time of the designation, the Department of Defense (DOD) and legacy INS announced that they would work together to ensure that military naturalization applications would be processed expeditiously. USCIS adjudication procedures for military naturalization applications reflect that commitment.

2. Legislation Affecting Service Period, Overseas Naturalization, and Benefits for Relatives

On November 24, 2003, Congress enacted legislation[7] to:

- Reduce the period of service required for military naturalization based on peacetime service from three years to one year.[8]
- Add service in the Selected Reserve of the Ready Reserve during periods of hostilities as a basis to qualify for naturalization.[9]
- Expand the immigration benefits available to the spouses, children, and parents of U.S. citizens who die from injuries or illnesses resulting from or aggravated by serving in combat. These benefits extend to such relatives of service members who were granted citizenship posthumously.
- Waive fees for naturalization applications based on military service during peacetime or during periods of hostilities.[10]
- Permit naturalization processing overseas in U.S. embassies, consulates, and military bases for members of the U.S. armed forces.[11]

Efforts since the 2003 legislation have focused on further streamlining procedures or extending immigration benefits to immediate relatives of service members.

[6] See Executive Order 13269 signed on July 3, 2002 (67 FR 45287, July 8, 2002). See INA 329.
[7] See the National Defense Authorization Act for Fiscal Year 2004, Pub. L. 108-136, 117 Stat. 1392.
[8] See INA 328(a).
[9] See INA 329(a).
[10] See INA 328(b) and INA 329(b) (Fee exemptions)
[11] See 8 U.S.C. 1443a (Permitting overseas proceedings).

3. Legislation Affecting Residence, Physical Presence, and Naturalization while Abroad for Spouses and Children

On January 28, 2008, Congress amended existing statutes to allow residence abroad to qualify as "continuous residence" and "physical presence" in the United States for a spouse or child of a service member who is authorized to accompany the service member by official orders and is residing abroad with the service member.[12]

Under certain conditions, a spouse or child of a service member may count any period of time that he or she is residing (or has resided) abroad with the service member as residence and physical presence in the United States. This legislation also prescribes that such a spouse or child may be eligible to have any or all of their naturalization proceedings conducted abroad. Before this legislation, the law only permitted eligible service members to participate in naturalization proceedings abroad.

- INA 284(b) limits the circumstances under which the LPR spouse or child is considered to be seeking admission to the United States. This means that the spouse or child will not be deemed to have abandoned or relinquished his or her LPR status while residing abroad with the service member. The provision ensures reentry into the United States by LPR spouses and children whose presence abroad might otherwise be deemed as abandonment of LPR status.

- INA 319(e) allows certain LPR spouses to count any qualifying time abroad as continuous residence and physical presence in the United States and permits eligible spouses to naturalize overseas.

- INA 322(d) allows the U.S. citizen parent of a child filing for naturalization to count time abroad as physical presence and allows the child to naturalize overseas.

4. Fingerprint Requirement (Kendell Frederick Citizenship Assistance Act)

On June 26, 2008, Congress mandated that USCIS use enlistment fingerprints or previously submitted USCIS fingerprints to satisfy the naturalization background check requirements unless a more efficient method is available.[13]

5. Expedited Application Processing (Military Personnel Citizenship Processing Act)

On October 9, 2008, Congress amended existing statutes to mandate USCIS to process and adjudicate naturalization applications filed under certain military-related provisions within six months of the receipt date or provide the applicant with an explanation for why his or her application is still pending and an estimated adjudication completion date.[14]

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[12] See the National Defense Authorization Act for Fiscal Year 2008, Pub. L. 110-181, 122 Stat. 3, which amended INA 284, INA 319, and INA 322.

[13] See Chapter 6, Required Background Checks. See the Kendell Frederick Citizenship Assistance Act of 2008, Pub. L. 110-251, 122 Stat. 2319.

[14] This legislation affects naturalization applications under INA 328(a), INA 329(a), INA 329A, INA 329(b), and surviving spouses and children who qualify under INA 319(b), or INA 319(d). See the Military Personnel Citizenship Processing Act of 2008, Pub. L. 110-382, 122 Stat. 4087.

C. Legal Authorities

- INA 319; 8 CFR 319 – Spouses of U.S. Citizens
- INA 322; 8 CFR 322 – Children born outside of the United States
- INA 328; 8 CFR 328 – Naturalization through peacetime military service for one year
- INA 329; 8 CFR 329 – Naturalization through military Service during hostilities
- INA 329A; 8 CFR 392 – Posthumous citizenship
- 8 U.S.C. 1443a – Overseas naturalization for service members and their qualifying spouses and children

Chapter 2: One Year of Military Service during Peacetime (INA 328)

A. General Eligibility through One Year of Military Service during Peacetime

A person who has served honorably in the U.S. armed forces for one year at any time may be eligible to apply for naturalization, which is sometimes referred to as "peacetime naturalization."[15] While some of the general naturalization requirements apply to qualifying members or veterans of the U.S. armed forces seeking to naturalize based on one year of service,[16] other requirements may not apply or are reduced.

The applicant must establish that he or she meets all of the following criteria in order to qualify:

- The applicant must be 18 years of age or older.
- The applicant must have served honorably in the U.S. armed forces for at least one year.
- The applicant must be a lawful permanent resident (LPR) at the time of examination on the naturalization application.
- The applicant must meet certain residence and physical presence requirements.
- The applicant must demonstrate an ability to understand English including an ability to read, write, and speak English.
- The applicant must demonstrate knowledge of U.S. history and government.
- The applicant must demonstrate good moral character for at least five years prior to filing the application until the time of his or her naturalization.
- The applicant must have an attachment to the principles of the U.S. Constitution and be well disposed to the good order and happiness of the U.S. during all relevant periods under the law.

[15] See INA 328.
[16] See INA 316(a) for the general naturalization requirements. See Part D, General Naturalization Requirements.

B. Honorable Service

Qualifying military service is honorable active or reserve service in the U.S. Army, Navy, Marine Corps, Air Force, Coast Guard, or service in a National Guard unit. Honorable service means only service in the U.S. armed forces that is designated as honorable service by the executive department under which the applicant performed that military service.

Both "Honorable" and "General-Under Honorable Conditions" discharge types qualify as honorable service for immigration purposes. Other discharge types, such as "Other Than Honorable," do not qualify as honorable service.

C. National Guard Service

Honorable service as a member of the National Guard is limited to service in a National Guard unit during such time as the unit is federally recognized as a reserve component of the U.S. armed forces. This applies to applicants for naturalization on the basis of one year of military service.[17]

D. Continuous Residence and Physical Presence Requirements

An applicant who files on the basis of one year of military service while he or she is still serving in the U.S. armed forces or within six months of an honorable discharge is exempt from the residence and physical presence requirements for naturalization.[18]

An applicant who files six months or more from his or her separation from the U.S. armed forces must have continuously resided in the United States for at least five years. In addition, the applicant must have been physically present in the United States for at least 30 months out of the five years immediately preceding the date of filing the application.[19] However, any honorable service within the five years immediately preceding the date of filing the application will be considered towards residence and physical presence within the United States.[20]

An applicant with military service who does not qualify on the basis of one year of military service[21] may be eligible under another non-military naturalization provision. The period that the applicant has resided outside of the United States on official military orders does not break his or her continuous residence. USCIS will treat such time abroad as time in the United States.[22]

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[17] See INA 328. The National Guard and Reserve service requirements under INA 329 differ from those under INA 328. See Chapter 3, Military Service during Hostilities (INA 329), Section C, National Guard Service.
[18] See INA 328. See 8 CFR 328.2.
[19] See INA 316(a) and INA 328(d). See Part D, General Naturalization Requirements.
[20] See INA 328(d).
[21] See INA 328.
[22] Special provisions also exist regarding the "place of residence" for applicants who are serving in the U.S. armed forces but who do not qualify for naturalization through the military provisions. See 8 CFR 316.5(b). See Part D, General Naturalization Requirements, Chapter 6, Jurisdiction, Place of Residence, and Early Filing.

Chapter 3: Military Service during Hostilities (INA 329)

A. General Eligibility through Military Service during Hostilities

Members of the U.S. armed forces who serve honorably for any period of time during specifically designated periods of hostilities may be eligible to naturalize.[23] One day of qualifying service is sufficient in establishing eligibility.

The applicant must establish that he or she meets all of the following criteria in order to qualify:

- The applicant may be of any age.
- The applicant must have served honorably in the U.S. armed forces during a designated period of hostility.
- The applicant must either be an LPR **or** have been physically present at the time of enlistment, reenlistment, or extension of service or induction into the U.S. armed forces:
  - In the United States or its outlying possessions, including the Canal Zone, American Samoa, or Swains Island, or
  - On board a public vessel owned or operated by the United States for noncommercial service.
- The applicant must be able to read, write, and speak basic English.
- The applicant must demonstrate knowledge of U.S. history and government.
- The applicant must demonstrate good moral character for at least one year prior to filing the application until the time of his or her naturalization.
- The applicant must have an attachment to the principles of the U.S. Constitution and be well disposed to the good order and happiness of the U.S. during all relevant periods under the law.

An applicant who files on the basis of military service during hostilities is exempt from the general naturalization requirements of continuous residence and physical presence.[24]

B. Honorable Service

Qualifying military service is honorable service in the Selected Reserve of the Ready Reserve or active duty service in the U.S. Army, Navy, Marine Corps, Air Force, or Coast Guard. Service in a National Guard Unit may also qualify.[25]

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[23] See INA 329. In 2009, the DOD authorized the Military Accessions Vital to the National Interest (MAVNI) pilot program as a recruitment pilot to enlist certain foreign nationals with skills considered to be "vital to national interest." The pilot program applies to certain health care professionals and individuals fluent in certain foreign languages. A MAVNI enlistee may apply for naturalization upon enlistment. See the DOD MAVNI program fact sheet for further details.

[24] See INA 329(b). See 8 CFR 329.2(e).

Honorable service means only service in the U.S. armed forces that is designated as honorable service by the executive department under which the applicant performed that military service.

Both "Honorable" and "General-Under Honorable Conditions" discharge types qualify as honorable service for immigration purposes. Other discharge types, such as "Other Than Honorable," do not qualify as honorable service.

C. National Guard Service

An applicant filing on the basis of military service during hostilities[26] who has National Guard service may qualify if he or she has honorable service in either the U.S. armed forces or in the Selected Reserve of the Ready Reserve.[27] USCIS does not require proof of federal activation for a National Guard applicant if the applicant served in the Selected Reserve of the Ready Reserve during a designated period of hostility.[28]

D. Designated Periods of Hostilities

The INA and Presidential Executive Orders have designated the following military engagements and ranges of dates as periods of hostilities.

Designated Periods of Hostilities			
World War I	April 6, 1917	→	November 11, 1918
World War II	September 1, 1939	→	December 31, 1946
Korea	June 25, 1950	→	July 1, 1955
Vietnam	February 28, 1961	→	October 15, 1978
Persian Gulf	August 2, 1990	→	April 11, 1991
Enduring Freedom	September 11, 2001	→	**Present**

The current period starting on September 11, 2001 will continue to be considered a designated period of hostilities until the President issues an Executive Order to terminate the designation.

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[25] See Section C, National Guard Service.
[26] See INA 329.
[27] See 8 CFR 329.1. See 10 U.S.C. 10143 for more information on Selected Reserve of the Ready Reserve.
[28] The National Guard and Reserve service requirements under INA 329 differ from those under INA 328. See Chapter 2, One Year of Military Service during Peacetime (INA 328), Section C, National Guard Service.

E. Eligibility as Permanent Resident or if Present in United States at Induction or Enlistment

In general, an applicant who files on the basis of military service during hostilities[29] is not required to be an LPR if he or she was physically present at the time of induction, enlistment, reenlistment, or extension of service in the U.S. armed forces:

- In the United States, the Canal Zone, American Samoa, or Swains Island; or
- On board a public vessel owned or operated by the United States for noncommercial service.

In addition, an applicant who is lawfully admitted for permanent residence after enlistment or induction is also eligible for naturalization under this provision regardless of the place of enlistment or induction.

F. Conditional Permanent Residence and Naturalization during Hostilities

If the applicant is a conditional permanent resident and is eligible to naturalize on the basis of military service during hostilities[30] without being an LPR based on being in the United States during enlistment or induction, the applicant is not required to file or have an approved Petition to Remove the Conditions on Residence (Form I-751) before his or her Application for Naturalization (Form N-400) may be approved.

Chapter 4: Permanent Bars to Naturalization

A. Exemption or Discharge from Military Service Because of Foreign Nationality

1. Permanent Bar for Exemption or Discharge from Military Service

An applicant who requested, applied for, and obtained a discharge or exemption from military service from the U.S. armed forces on the ground that he or she is an alien or foreign national ("alienage discharge") is permanently ineligible for naturalization unless he or she qualifies for an exception (discussed below).[31]

An exemption from military service is either a permanent exemption from induction into the U.S. armed services or the release or discharge from military training or service in the U.S. armed forces.[32] Induction means compulsory entrance into military service of the United States by conscription or by enlistment after being notified of a pending conscription.

Until 1975, applicants were required to register for the military draft. The failure to register for the draft or to comply with an induction notice is relevant to the determination of whether the applicant was liable for military service, especially in cases where an exemption was based on foreign nationality.

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[29] See INA 329.
[30] See INA 329.
[31] See INA 315. See 8 CFR 315.2.
[32] See 8 CFR 315.1. The Ninth Circuit has found that an exemption from voluntary military service is not a permanent bar under INA 315. See *Gallarde v. I.N.S.*, 486 F.3d 1136 (9th Cir 2007). INA 329 has similar language about exemptions, and that language has been found to cover discharges based on alienage even in cases of voluntary enlistment. See *Sakarapanee v. USCIS,* 616 F.3d 595, (6th Cir 2010). Officers should consult with local OCC counsel in handling discharges based on alienage.

Certain persons were granted exemptions from the draft for reasons other than foreign nationality, including medical disability and conscientious objector. An applicant may present a draft registration card with an exempt classification under circumstances that do not relate to foreign nationality.

2. Exceptions to Permanent Bar

There are exceptions to the permanent bar to naturalization for obtaining a discharge or exemption from military service on the ground of alienage.[33]

The permanent bar does not apply to the applicant if he or she establishes by clear and convincing evidence that:

- The applicant had no liability for military service (even in the absence of an exemption) at the time he or she requested an exemption from military service;
- The applicant did not request or apply for the exemption from military service, but such exemption was automatically granted by the U.S. Government;[34]
- The exemption from military service was based upon a ground other than the applicant's alienage;
- The applicant was unable to make an intelligent choice between an exemption from military service and citizenship because he or she was misled by an authority from the U.S. Government or from the government of his or her country of nationality;
- The applicant applied for and received an exemption from military service on the basis of alienage, but was subsequently inducted into the U.S. armed forces or the National Security Training Corps;[35]
- Prior to requesting the exemption from military service, the applicant served a minimum of eighteen months in the armed forces of a nation that was a member of the North Atlantic Treaty Organization at the time of his or her service, or the applicant served a minimum of twelve months and applied for registration with the Selective Service Administration after September 28, 1971; or
- Prior to requesting the exemption from military service, the applicant was a "treaty national"[36] who had served in the armed forces of the country of which he or she was a national.[37]

[33] See 8 CFR 315.2(b).
[34] See *In re Watson*, 502 F. Supp. 145 (D.C. 1980).
[35] However, an applicant who voluntarily enlists in and serves in the U.S. armed forces after applying for and receiving an exemption from military service on the basis of alienage is not exempt from the permanent bar.
[36] "Treaty national" means a person who is a national of a country with which the United States has a treaty relating to the reciprocal exemption of aliens from military training or military service.
[37] See 8 CFR 315.2(b).

3. Countries with Treaties Providing Reciprocal Exemption from Military Service

The tables below provide lists of countries that currently have (or previously had) effective treaties providing reciprocal exemption from military service.[38]

Countries with Effective Treaties Providing Reciprocal Exemption from Military Service	
Argentina	Art. X, 10 Stat. 1005, 1009, effective 1853
Austria	Art. VI, 47 Stat. 1876, 1880, effective 1928
China	Art. XIV, 63 Stat. 1299, 1311, effective 1946
Costa Rica	Art. IX, 10 Stat. 916, 921, effective 1851
Estonia	Art. VI, 44 Stat. 2379, 2381, effective 1925
Honduras	Art. VI, 45 Stat. 2618, 2622, effective 1927
Ireland	Art. III, 1 US 785, 789, effective 1950
Italy	Art. XIII, 63 Stat. 2255, 2272, effective 1948
Latvia	Art. VI, 45 Stat. 2641, 2643, effective 1928
Liberia	Art. VI, 54 Stat. 1739, 1742, effective 1938
Norway	Art. VI, 47 Stat. 2135, 2139, effective 1928
Paraguay	Art. XI, 12 Stat. 1091, 1096, effective 1859
Spain	Art. V, 33 Stat. 2105, 2108, effective 1902
Switzerland	Art. II, 11 Stat. 587, 589, effective 1850
Yugoslavia Serbia	Art. IV, 22 Stat. 963, 964, effective 1881

[38] See 8 CFR 315.4.

Countries with Expired Treaties Providing Reciprocal Exemption from Military Service	
El Salvador	Art. VI, 46 Stat. 2817, 2821 (effective 1926 to February 8, 1958)
Germany	Art. VI, 44 Stat. 2132, 2136 (effective 1923 to June 2, 1954)
Hungary	Art. VI, 44 Stat, 2441, 2445 (effective 1925 to July 5, 1952)
Thailand (Siam)	Art. 1, 53 Stat. 1731, 1732 (effective 1937 to June 8, 1968)

4. Documentation and Evidence

The Application for Naturalization (Form N-400) and Request for Certification of Military or Naval Service (Form N-426) contain questions pertaining to discharge due to alienage or foreign nationality. The fact that an applicant is exempted or discharged from service in the U.S. armed forces on the grounds that he or she is a foreign national (alien) may impact the applicant's eligibility for naturalization.

Selective Service and military department records are conclusive evidence of service and discharge.[39] Proof of an applicant's request and approval for an exemption or discharge from military service because the applicant is a foreign national may be grounds for denial of the naturalization application.[40]

B. Deserters or Persons Absent Without Official Leave (AWOL)

An applicant who is convicted by court martial as a deserter may be permanently barred from naturalization.[41] A person not ultimately court martialed for being a deserter or for being Absent without Official Leave (AWOL), however, is not permanently barred from naturalization.

An applicant who deserted or was AWOL during the relevant period for good moral character may be ineligible for naturalization under the "unlawful acts" provision.[42]

Chapter 5: Application and Filing for Service Members (INA 328 and 329)

This section provides relevant information for applying for naturalization on the basis of military service.[43] Service members should file their applications in accordance with the instructions for the Application for Naturalization (Form N-400) and other required forms.

[39] See 8 CFR 315.3.
[40] See INA 315. See 8 CFR 315.2.
[41] See INA 314.
[42] See Part F, Good Moral Character, Chapter 5, Conditional Bars for Acts in Statutory Period, Section M, Unlawful Acts.
[43] See INA 328 and INA 329.

A. Required Forms

An applicant filing for naturalization based on one year of honorable military service during peacetime[44] or honorable service during a designated period of hostility[45] must complete and submit all of the following to USCIS:

Form N-400, Application for Naturalization

The applicant should check the appropriate eligibility option on the Application for Naturalization to indicate that he or she is applying on the basis of qualifying military service. The applicant should file the application in accordance with the form instructions.

Form N-426, Request for Certification of Military or Naval Service

The Request for Certification of Military or Naval Service confirms whether the applicant served honorably in an active duty status or in the Selected Reserve of the Ready Reserve. The form may also establish whether the applicant has ever been released from military service on the grounds that he or she is an alien or foreign national. Only those applicants applying under INA 328 or INA 329 are required to submit the form. An applicant applying under a different naturalization provision is not required to submit the form, even if the applicant has prior military service.

The military must complete and certify (sign) the Request for Certification of Military or Naval Service before it is submitted to USCIS. USCIS, however, will accept a completed but uncertified form submitted by an applicant who has separated from the U.S. armed forces if:

- The applicant submitted a photocopy of his or her Certificate or Release from Active Duty (DD Form 214) or National Guard Report of Separation and Record of Service (NGB Form 22) for applicable periods of service listed on Form N-426; and

- The DD Form 214 or NGB Form 22 lists information on the type of separation and character of service. Such information is typically found on page "Member-4" of DD Form 214 or Block 24 of NGB Form 22.

Most military installations have a designated office that serves as a point-of-contact to assist service members with their naturalization application packets. Service members should inquire through their chain of command for the appropriate office to assist with preparing the naturalization packet.

B. Fee Exemptions

- USCIS charges no fees for filing an Application for Naturalization (Form N-400) or for biometrics capturing for applications filed under INA 328 or INA 329.

[44] See INA 328.
[45] See INA 329.

- There is no fee for filing a Request for a Hearing on a Decision in Naturalization Proceedings (Form N-336) for applicants whose naturalization application filed under INA 328 or INA 329 has been denied.[46]

- There is no filing fee for current and former service members for an Application for Certificate of Citizenship (Form N-600).[47]

C. Filing Location and Initial Processing

Naturalization applications filed on the basis of military service should be filed in accordance with the form instructions.[48] USCIS will permit an applicant residing abroad the option to file his or her application for naturalization with the USCIS overseas office having jurisdiction over his or her place of residence, as practicable.

An applicant serving abroad may complete all aspects of the naturalization process, including fingerprinting, interviews and oath ceremonies while residing abroad on official orders.[49] The applicant may request overseas processing at any time of the naturalization process.

Chapter 6: Required Background Checks

USCIS conducts security and background checks on all applicants for naturalization. Members or former members of the U.S. armed forces applying for naturalization must comply with those requirements. This chapter provides information on specific background checks required of such applicants. This chapter also provides information on the ways service members may meet the fingerprint requirement for naturalization.

A. Defense Clearance Investigative Index (DCII) Query

USCIS must conduct a Defense Clearance Investigative Index (DCII) query with the DOD as part of the background check process on any applicant with military service regardless of the section of law under which he or she is applying for naturalization. The DCII check is valid for 15 months from the initial response. The DCII check should show whether the applicant has any derogatory information in his or her military records.[50]

B. Fingerprint Requirement and the Kendell Frederick Citizenship Assistance Act

USCIS must collect fingerprint records as part of the background check process on most applicants for naturalization. The Kendell Frederick Citizenship Assistance Act (KFCAA) mandates USCIS to use enlistment

[46] See USCIS Fee Schedule Final Rule (75 FR 58962, Sept. 24, 2010).
[47] See USCIS Fee Schedule Final Rule (75 FR 58962, Sept. 24, 2010).
[48] See INA 328 and INA 329.
[49] See 8 U.S.C. 1443a.
[50] Previously, a military applicant was required to submit Form G-325B, Biographic Information, which USCIS used to initiate the DCII query. USCIS determined, however, that the information collected on Form N-400 is sufficient to perform the queries and deemed Form G-325B obsolete. As of February 18, 2010, Form G-325B is no longer required for any pending naturalization application.

fingerprints or previously submitted USCIS fingerprints to satisfy the fingerprint requirement for service members unless a more efficient method is available.

If DHS determines that new biometrics would "result in more timely and effective adjudication of the individual's naturalization application," DHS must inform the applicant of this determination and provide the applicant with information on how to submit fingerprints.[51]

C. Ways Service Members may Meet Fingerprint Requirement

The table below provides the ways in which a service member may meet the fingerprint requirement for naturalization on the basis of military service.[52] Such applicants may meet the requirement through **any** of the following ways provided in the table. These procedures aim at USCIS compliance with the KFCAA.

Ways Service Members may meet Fingerprint Requirement for Naturalization
• The service member may appear at any stateside USCIS Application Support Center (ASC) for fingerprint capture with or without an appointment
• The service member may have his or her fingerprints taken by USCIS personnel at select military installations in the United States via mobile fingerprinting equipment
• USCIS may re-submit the service member's fingerprints for up-to-date records if such records are on file with USCIS
• USCIS may acquire and use the service member's fingerprints taken at the time of enlistment into the military ("OPM fingerprints")
• The service member may have his or her fingerprints taken using the FD-258 fingerprint cards at a U.S. military installation (or U.S. embassy or consulate if overseas)
• USCIS will accept FD-258 fingerprint cards or comparable DOD fingerprint cards from domestic or overseas military installations (However, fingerprints captured electronically, either at an ASC or through a mobile fingerprinting unit, remain the more advantageous method for both the applicant and USCIS)

USCIS will consider an applicant's naturalization application to be abandoned and will deny the application for failure to appear for biometrics capture (fingerprinting)[53] if all of the following conditions are true:

- The NSC is unable to locate the applicant or three days have elapsed from the last day of the time period allotted for the applicant to appear for fingerprinting (as stated on the second ASC appointment notice);

[51] See the Kendell Frederick Citizenship Assistance Act of 2008, Pub. L. No. 110-251, 122 Stat. 2319.
[52] See INA 328 or INA 329. See 8 CFR 335.2(b).
[53] See 8 CFR 103.2(b)(13)(ii).

- The applicant is stationed stateside (and is otherwise able to report to an ASC) and has not submitted FD-258 fingerprint cards;

- The applicant has not fulfilled the fingerprint requirement; and

- USCIS has determined that the enlistment fingerprints are unavailable or are unclassifiable.

Any subsequent correspondence from an affected applicant whose application was denied for failure to appear for fingerprinting within one year is considered a Service motion to reopen.[54] USCIS grants the motion and continues with the processing of the naturalization application. USCIS does not deny an application for abandonment for failure to provide fingerprints if USCIS has evidence that the applicant is deployed inside the United States or overseas and is unable to be fingerprinted.

Chapter 7: Revocation of Naturalization

A military member whose naturalization was granted on the basis of military service on or after November 24, 2003 may be subject to revocation of naturalization if he or she was separated from the U.S. armed forces under other than honorable conditions before he or she has served honorably for a period or periods totaling at least five years.[55]

Chapter 8: Posthumous Citizenship (INA 329A)

A. Eligibility for Posthumous Citizenship

In general, a person who serves honorably in the U.S. armed forces during designated periods of hostilities and dies as a result of injury or disease incurred in or aggravated by that service may be eligible for posthumous citizenship.[56] Posthumous citizenship establishes that the deceased service member is considered a citizen of the United States as of the date of his or her death.[57]

The military branch under which the deceased service member served will determine whether he or she served honorably in an active-duty status during a qualified period and whether the death was combat related.

Spouses and children of U.S. citizen service members who qualify for posthumous citizenship may be eligible for immigration benefits under special provisions of the INA.[58]

B. Application and Filing

[54] See 8 CFR 103.5(a)(5).
[55] See INA 328(f), INA 329(c), and INA 340. See Pub. L. 108-136. Such cases should be referred to U.S. Immigration and Customs Enforcement (ICE).
[56] See Chapter 3, Military Service during Hostilities (INA 329), Section D, Designated Periods of Hostilities.
[57] See INA 329A and 8 CFR 392.
[58] See Chapter 9, Spouses, Children, and Surviving Family Benefits.

The service member's next of kin, the Secretary of Defense, or the Secretary's designee in USCIS must submit an Application for Posthumous Citizenship (Form N-644) within two years of the service member's death and in accordance with the form instructions and with appropriate fee.[59] USCIS uses the posthumous citizenship application to verify the deceased service member's place of induction, enlistment or reenlistment; military service; and service-connected death.[60]

The following documents should be submitted along with the completed Application for Posthumous Citizenship, if available:

- DD Form 214, Certificate of Release or Discharge from Active Duty
- DD Form 1300, Report of Casualty/Military Death Certificate (or other military or State issued death certificate)
- Any other military or state issued certificate of the decedent's death

C. Adjudication

USCIS will issue a Certificate of Citizenship (Form N-645) in the name of the deceased service member establishing posthumously that he or she was a U.S. citizen on the date of his or her death if the Application for Posthumous Citizenship is approved.[61] In cases where USCIS denies the Form N-644, USCIS will notify the applicant of the decision and the reason(s) for denial. There is no appeal for a denied posthumous citizenship application.[62]

Chapter 9: Spouses, Children, and Surviving Family Benefits

A. General Provisions for Spouses, Children, and Parents of Military Members

1. Benefits for Family Members

Spouses and children of U.S. citizen service members may be eligible for naturalization under special provisions in the INA. Certain spouses may be eligible for expedited naturalization in the United States and may not be required to establish any prior period of residence or specified period of physical presence within the United States, as generally required for naturalization.

The surviving spouse, child, or parent of a U.S. citizen who dies during a period of honorable service in an active duty status in the U.S. armed forces may be eligible for naturalization. Surviving family members seeking immigration benefits are given special consideration in the processing of their applications for permanent residence or for classification as an immediate relative.[63]

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[59] See 8 CFR 103.7.
[60] See 8 CFR 392.2.
[61] See 8 CFR 392.4. See Part K, Certificates of Citizenship and Naturalization, Chapter 2, Certificate of Citizenship.
[62] See 8 CFR 392.3(d).
[63] See forthcoming Volume 6, Immigrants.

On January 28, 2008, legislation was enacted to permit a spouse or child to count any period of time that he or she is residing abroad with the service member as authorized by official orders as residence and physical presence in the United States, under certain conditions.[64] The same legislation also prescribes that such a spouse or child may be eligible for overseas proceedings relating to naturalization, as previously only permitted for an eligible member of the U.S. armed forces.

Specifically, one provision limits the circumstances under which the LPR spouse or child is considered to be seeking admission to the United States.[65] Another provision allows the LPR spouse to count any qualifying time abroad as continuous residence and physical presence in the United States and permits the spouse to naturalize overseas.[66] Another provision allows the U.S. citizen parent of a child filing for naturalization to count time abroad as physical presence and permits the child to naturalize overseas.[67]

2. Documenting "Official Orders"

In order to count any qualifying time abroad as continuous residence and physical presence in the United States, a spouse or child of a member of the U.S. armed forces must have official military orders authorizing him or her to accompany his or her service member spouse or parent abroad, and must accompany or live with that service member as provided in those orders.[68]

USCIS will only accept the following documents issued by the U.S. armed forces as "official orders:"

- Copy of Permanent Change of Station (PCS) orders issued to a service member for permanent tour of duty overseas that specifically name the spouse or child applying for naturalization; **or**

- If the submitted PCS orders do not specifically name the applicant beyond reference to "spouse," "child," or "dependent," then the applicant must submit:

  - PCS orders (copy);

  - Form DD-1278 (Certificate of Overseas Assignment to Support Application to File Petition for Naturalization); and

  - Service member's Form DD-1172 (Application for Uniformed Services Identification Card DEERS Enrollment) naming dependents.

[64] See the National Defense Authorization Act for Fiscal Year 2008, Pub. L. 110-181, 122 Stat. 3, which amended INA 284, INA 319, and INA 322.
[65] See INA 284(b).
[66] See INA 319(e).
[67] See INA 322(d).
[68] See INA 319(e) and INA 322(d).

B. Spouses of Military Members[69]

The table below serves as a quick reference guide to certain residence, physical presence, and overseas naturalization provisions for spouses of service members. The paragraphs that follow the table provide further guidance on each provision.

Residence, Physical Presence, and Overseas Naturalization for Spouses of Members of the U.S. Armed Forces				
INA Section	**Residence**	**Physical Presence**	**Treatment of Time Residing Abroad**	**Overseas Naturalization**
316(a)	LPR for 5 years	30 months	Time residing with U.S. citizen spouse serving abroad may be treated as residence and physical presence in the United States (INA 319(e))	May complete entire naturalization process from abroad
319(a)	LPR for 3 years	18 months		
319(b)	Must be LPR but no specified period of residence or physical presence is required			Must complete interview and oath in United States

1. Spouses of Service Members (INA 316(a) and INA 319(a))

Spouses of service members may qualify for naturalization through the general naturalization provision or on the basis of their marriage to a U.S. citizen.[70] The general provision applies to spouses who have been LPRs for five years immediately preceding the date of filing the naturalization application.[71] Naturalization on the basis of marriage applies to spouses of U.S. citizens who have been LPRs for three years immediately preceding the date of filing the naturalization application and who have lived in marital union with their citizen spouses for those three years.[72]

2. Spouses of Military Members who are or will be Stationed or Deployed Abroad (INA 319(b))

The law permits expedited naturalization in the United States for eligible spouses of U.S. citizen service members who are or will be stationed or deployed abroad.[73] This provision does not require any prior period of residence or specified period of physical presence within the United States for any LPR spouse of a U.S. citizen who is an employee of the United States Government (including a member of the U.S. armed forces) or recognized nonprofit organization who is stationed abroad in such employment for at least one year.[74]

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[69] This section describes certain benefits on residence, physical presence, and overseas naturalization for spouses of service members. See Part G, Spouses of U.S. Citizens, for guidance on the general spousal naturalization provisions.
[70] See INA 316(a). See Part G, Spouses of U.S. Citizens.
[71] See INA 316(a). See Part D, General Naturalization Requirements.
[72] See INA 319(a).
[73] See INA 319(b).
[74] See Part G, Spouses of U.S. Citizens, Chapter 4, Spouses of U.S. Citizens Employed Abroad.

In general, the applicant is required to be in the United States for his or her naturalization examination or interview and for taking the Oath of Allegiance for naturalization.[75]

Spouses of service members already accompanying and residing abroad with their military spouse may also qualify for naturalization through the general provision[76] or on the basis of their marriage to a U.S. citizen for three years.[77] Such spouses may be eligible for any naturalization proceeding abroad, to include interviews, filings, oaths, ceremonies, or other proceedings relating to naturalization.[78]

3. Continuous Residence and Physical Presence while Residing Abroad (INA 319(e))

Certain eligible spouses of service members may count qualifying residence abroad as residence and physical presence in the United States for purposes of naturalization.[79] This provision does not provide an independent basis for naturalization. The benefits of this provision only apply to an LPR who is eligible for naturalization through the general provision[80] or on the basis of his or her marriage to a U.S. citizen for three years.[81]

The spouse must meet all of the following conditions during such time abroad:

- The LPR is the spouse of a member of the U.S. armed forces;
- The LPR is authorized to accompany and reside abroad with the service member pursuant to the service member's official orders;[82] and
- The LPR is accompanying and residing abroad with the service member in marital union.[83]

The spouse is not required to be abroad at the time the officer makes such determination. For example, an applicant who is currently residing in the United States, but had previously resided abroad during the statutory residency or physical presence period, may count the time abroad as continuous residence and physical presence, if he or she meets the eligibility criteria.

The spouse of a service member who has been an LPR for five years and is applying for naturalization through the general provision does not need to establish that the service member is a U.S. citizen.[84] An applicant who is no longer married to a service member at the time of filing may still meet the residence and physical presence requirements if the LPR was married to the service member and met all the conditions above during the period of time in question.

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[75] See INA 319(b). See 8 CFR 319.2.
[76] See INA 316(a).
[77] See INA 319(a).
[78] See Part G, Spouses of U.S. Citizens. See 8 U.S.C. 1443a.
[79] See INA 319(e). See 8 CFR 316.5(b)(6). See 8 CFR 316.6.
[80] See INA 316(a).
[81] See INA 319(a).
[82] See Section A, General Provisions for Spouses, Children, and Parents of Military Members, for guidance on "official orders."
[83] See 8 CFR 316.5(b)(6). See 8 CFR 316.6.
[84] See INA 316.

The spouse of a service member who has been an LPR for three years and who is applying on the basis of his or her marriage for three years must establish that the service member has been a U.S. citizen for the required period.[85]

4. Overseas Naturalization for Spouses of Service Members

In addition to allowing certain time abroad to count towards the residence and physical presence requirements, INA 319(e) permits eligible spouses of service members to naturalize abroad without traveling to the United States for any part of the naturalization process.

In general, to be eligible to naturalize abroad, the LPR spouse of a service member must:

- Be authorized to accompany the service member abroad per the service member's official orders;
- Be residing abroad with the service member in marital union; and
- Meet the requirements of either INA 316(a) or INA 319(a) at the time of filing the naturalization application, except for the residence and physical presence requirements.

Prior to the enactment of the overseas provisions in 2008, with some exceptions, a service member's LPR spouse residing abroad with the service member had to apply for naturalization through expedited naturalization provisions.[86] This applied to a spouse who was eligible through the general provision[87] or through three years of marriage to a U.S. citizen[88] but whose time abroad rendered him or her unable to meet the respective continuous residence or physical presence requirements.

An LPR filing as the spouse of a service member residing abroad[89] was exempt from the continuous residence and physical presence requirements, but he or she was still required to return to the United States for his or her interview, naturalization, and any other related procedure.[90] The overseas naturalization provisions allows such an LPR spouse to apply for naturalization from abroad and complete any procedure relating to his or her application for naturalization while residing abroad.[91]

5. Application and Filing

Form N-400, Application for Naturalization

[85] See INA 319(a).
[86] See INA 319(b).
[87] See INA 316.
[88] See INA 319(a).
[89] See INA 319(b).
[90] See Part G, Spouses of U.S. Citizens, Chapter 4, Spouses of U.S. Citizens Employed Abroad, Section F, In the United States for Examination and Oath of Allegiance.
[91] See 8 U.S.C. 1443a.

Eligible spouses of members of the U.S. armed forces who live abroad and want to naturalize abroad should submit an Application for Naturalization (Form N-400) in accordance with the instructions on the form and with appropriate fee.[92]

Spouses should indicate that they seek to naturalize through the general provision[93] or on the basis of their marriage to a U.S. citizen for three years[94] and to rely on INA 319(e) to meet the applicable continuous residence and physical presence requirements. Spouses should also write in: "319(e) Overseas Naturalization," if so desired. Only those eligible spouses who prefer naturalization abroad should apply for that option. Spouses who prefer to apply for naturalization in the United States may still elect to do so.

Form DD-1278, Certificate of Overseas Assignment to Support Application to File Petition for Naturalization

Spouses should include Form DD-1278 along with their naturalization application. Form DD-1278 must be completed and signed by the military official certifying the applicant has "concurrent travel orders" and is authorized to join their spouse military service member abroad.

Fingerprint Cards (FD-258)

The spouse should submit two completed fingerprint cards (FD-258). Spouses applying overseas must have their fingerprints taken at a U.S. military base, an overseas USCIS field office, or an American Embassy/Consulate. Spouses applying in the United States must have their fingerprints taken at a USCIS Application Support Center.

Filing Location

The spouse should review and submit his or her application in accordance with the form instructions. USCIS will permit spouses who are residing abroad and eligible for the provisions under INA 319(e) to file their naturalization applications with the USCIS overseas office having jurisdiction over the spouse's overseas residence.

C. Children of Military Members[95]

The table below serves as a quick reference guide to certain residence, physical presence, and overseas naturalization provisions for children of service members. The paragraphs that follow the table provide further guidance on each provision.

Residence, Lawful Admission, and Overseas Naturalization for Children of Members of the U.S. Armed Forces

[92] See 8 CFR 103.7.
[93] See INA 316(a).
[94] See INA 319(a).
[95] This section describes certain benefits on residence, lawful admission, and overseas naturalization for children of service members. See Part H, Children of U.S. Citizens, for guidance on the general naturalization and acquisition of citizenship provisions.

INA Section[96]	Place of Residence	Lawful Admission	Treatment of Time Residing Abroad	Automatic Citizenship or Overseas Naturalization
320	United States or Abroad	Must be LPR	Residence with U.S. citizen parent serving is treated as residence in United States	May acquire automatic citizenship (must take oath in the United States)
322	Abroad	No lawful admission required	Must reside with U.S. citizen parent serving abroad	May complete entire naturalization process from abroad

1. Children of Service Members Residing in the United States (INA 320)

Children of members of the U.S. armed forces residing in the United States may automatically acquire citizenship.[97] The child must be under 18 years of age and must be an LPR in order to qualify. In order to obtain a Certificate of Citizenship, a child who has automatically acquired citizenship must follow the instructions on the Application for Certificate of Citizenship (Form N-600).[98]

2. Children of Service Members Residing Abroad (INA 322)

In general, INA 322 provides that a parent who is a U.S. citizen (or, if the citizen parent has died during the preceding five years, a citizen grandparent or citizen legal guardian) may apply for naturalization on behalf of a child born and residing outside of the United States who has not acquired citizenship automatically under INA 320. The child must naturalize before he or she reaches 18 years of age.

The general criteria to qualify under INA 322 include that the child must be temporarily present in the United States pursuant to a lawful admission in order to complete the naturalization. The child's qualifying U.S. citizen parent must also have been physically present in the United States or its outlying possessions for at least 5 years (2 of which after the age of 14).[99]

On January 28, 2008, INA 322 was amended to permit certain eligible children of members of the armed forces to become naturalized U.S. citizens without having to travel to the United States for any part of the naturalization process.[100]

The amendments benefit children of U.S. citizen members of the military who are accompanying their parent abroad on official orders.[101] Specifically, INA 322(d) provides that:

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[96] See 8 CFR 320.2 and 322.2.
[97] See INA 320.
[98] See Part H, Children of U.S. Citizens, Chapter 4, Automatic Acquisition of Citizenship after Birth (INA 320).
[99] See Part H, Children of U.S. Citizens, Chapter 5, Child Residing Outside of the United States (INA 322), Section C, Physical Presence of the U.S. Citizen Parent or Grandparent.
[100] See the National Defense Authorization Act for Fiscal Year 2008, Pub. L. 110-181, 122 Stat. 3.
[101] See Section A, General Provisions for Spouses, Children, and Parents of Military Members, for guidance on "official orders."

- Such children are not required to have a lawful admission or be present in the United States; and
- The U.S. citizen service member who is the child's parent may count any period of time he or she has resided abroad on official orders as physical presence in the United States.

These benefits are available only to biological, legitimated, or adopted children of U.S. citizen members of the U.S. armed forces and do not apply to step-children of the U.S. citizen parent. This is because the definition of "child" applicable to citizenship and naturalization provisions does not include step-children. The biological or legitimated child of a U.S. citizen parent (and member of the U.S. armed forces) must meet the requirements in INA 101(c)(1). An adopted child must meet the requirements for adopted children.[102]

USCIS will ensure that the child of a member of the U.S. armed forces is not already a U.S. citizen (has not acquired automatic citizenship[103]) prior to making a determination that he or she qualifies for naturalization through INA 322.

3. Lawful Admission and Maintenance Status Not Required (INA 322(d))

The child of a service member who is residing abroad with the service member per official orders is exempt from the temporary physical presence, lawful admission, and maintenance of lawful status requirements.[104]

4. Treatment of Physical Presence of U.S. Citizen Parent Residing Abroad

Any period of time the U.S. citizen service member who is the child's parent is residing or has resided abroad will be treated as physical presence in the United States if:

- The child is authorized to accompany and reside abroad with the service member per official orders;
- The child is accompanying and residing abroad with the service member; and
- The service member is residing or has resided abroad per official orders.

The first two conditions above are the triggering events that allow any period of time abroad to count as physical presence in the United States for the U.S. citizen parent.[105]

If the child is residing abroad with his or her U.S. citizen parent per official orders at the time of filing the Application for Citizenship and Issuance of Certificate Under Section 322 (Form N-600K), then any previous time the parent has resided abroad on official orders will be treated as physical presence in the United States regardless of whether the child resided with the parent.

5. Overseas Naturalization for Children Eligible under INA 322

[102] See Part H, Children of U.S. Citizens, Chapter 2, Definition of Child for Citizenship and Naturalization. See INA 101(b)(1)(E), (F), or (G).
[103] See INA 320.
[104] See INA 322(d). See INA 322(a)(5) for the physical presence, lawful admission, and maintenance of lawful status requirements.
[105] See INA 322(a)(2)(A).

The child of a service member who is on official orders authorizing the child to accompany and reside with that parent is not required to be an LPR or to have any other kind of lawful admission in the United States. The child may complete his or her entire naturalization process, to include filing and oath, while residing abroad.[106]

6. Application and Filing

Form N-600K, Application for Citizenship and Issuance of Certificate Under Section 322

To apply for citizenship for eligible children who live abroad and meet the requirements under INA 322, applicants must submit an Application for Citizenship and Issuance of Certificate Under Section 322 (Form N-600K) in accordance with the instructions on the form and with appropriate fee.[107]

Evidence of Residence Abroad

The applicant may show that the child resides abroad on official orders with the U.S. citizen-parent service member by submitting a copy of the Permanent Change of Station (PCS) orders that include the child's name.

If the PCS orders do not specifically name the applicant beyond reference to "child" or "dependent," then also include a copy of the service member's Form DD-1172 (DEERS Enrollment), naming the child.

Filing Location

Applicants must submit Form N-600K in accordance with the instructions on the form. USCIS will permit such applications to be filed with the USCIS overseas office having jurisdiction over the applicant's overseas residence.[108]

D. Naturalization for Surviving Spouse, Child, or Parent of Service Member (INA 319(d))

The spouse, child, or parent of a deceased U.S. citizen member of the U.S. armed forces who died as the result of his or her honorable service may be eligible for naturalization as the surviving relative of the service member. This includes surviving relatives of service members who were granted posthumous citizenship.[109]

The surviving spouse must have been living in marital union with the U.S. citizen service member spouse and must not have been legally separated at the time of his or her death. The spouse, however, remains eligible for naturalization if the spouse has remarried since the service member's death.[110]

The surviving spouse, child, or parent must meet the general naturalization requirements, except for the residence or physical presence requirements in the United States.

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[106] See INA 322(d).
[107] See 8 CFR 103.7.
[108] See 8 U.S.C. 1443a.
[109] See INA 319(d).
[110] See 8 CFR 319.3.

Appendix 1

The table below provides some of the major legislative amendments that have aimed at assisting qualified military personnel and their eligible family members to become U.S. citizens or to acquire other immigration benefits, or both.

Some Legislative Amendments Assisting Military Members and their Eligible Relatives to Become U.S. Citizens or to Acquire Other Immigration Benefits
Act of May 9, 1918 (40 Stat. 512)
- Accorded World War I servicemen certain exemptions from the then existing naturalization requirements - First statute to provide for overseas processing; however, petitions that were filed and not acted upon by the courts were declared invalid before May 25, 1932[111]
Modifications of 1918 Act[112]
- Under certain circumstances resident aliens who had departed from the United States and had served honorable in the military or naval forces of an allied country during World War I were granted special naturalization
Second War Powers Act of March 27, 1942 (amending Nationality Act of 1940)
- Provided for the expeditious naturalization of members of the U.S. armed forces serving in the United States and abroad - Provided for the naturalization of non-citizens serving during the war; the law permitted naturalization of those who did not meet requirements - Section 702, authorized the actual naturalization of World War II servicemen outside the United States - First time the Service had administrative authority to conduct naturalizations
Legislation of December 7, 1942 (amending Nationality Act of 1940)
- Addition of section 323a - Granted special naturalization privileges to World War I veterans - Embraced persons who served with the United States military or naval forces at any time after April 20, 1898, and before July 5, 1902 (Spanish-American War), as well as persons who served on the Mexican border between June 1916 and April 1917 as members of the Regular Army or National Guard (expired December 8, 1943)
Act of June 1, 1948; Immigration and Nationality Act

[111] See *Application of Campbell,* 5 F.2d 247 (E.D. Wash. 1925). See *Op. Sol. of Labor*, Jan, 1926, CO file 79/9.

[112] See Acts of July 19 and November 6, 1919, May 26, 1926, March 4, 1929, May 25, 1932, June 24, 1935, August 23, 1937, June 21, 1939, December 7, 1942.

- Added section 324A to the Act of October 14, 1940 (Nationality Act of 1940) - Revised, modified, and made permanent the earlier provisions for the expeditious naturalization of persons who served honorably in the United States armed forces during either World War I or II
Lodge Act, June 30, 1950 (64 Stat. 316)
- Was periodically extended during the 1950s, finally expiring on July 1, 1959 - The Act authorized naturalization under INA 329 of an alien who enlisted or reenlisted overseas under the terms of the Act; subsequently entered the United States, American Samoa, Swains Island, or the Canal Zone pursuant to military orders; completed five years of service; and was honorably discharged
Korean Hostilities; Act of June 30, 1953 (Pub. L. 86)
- Provided for the expeditious judicial naturalization of aliens, upon completion of at least 90 days' active and honorable service in the United States Armed Forces during a specified period (June 25, 1950 - July 1, 1955) extending beyond the termination date of the Korean conflict - Under the statute, all petitions had to be filed before January 1, 1956
Vietnam Hostilities Act of October 24, 1968 (82 Stat. 1343)
- Including Vietnam Hostilities to add as qualifying, service during a period beginning February 28, 1961, and ending on the termination fixed by the President - By Executive Order 12081, September 18, 1978, the President terminated the period of Vietnam hostilities as of October 15, 1978 - Allowed the designation by executive order such periods when the armed forces of the United States are engaged in armed conflict with a hostile foreign force
Grenada 15 Executive Order 12582 (February 2, 1987)[113]
- Although President Reagan designated the Grenada campaign as a period of hostilities, a federal court invalidated it entirely because, in contravention of statutory guidelines for such designations, the executive order attempted to limit the expedited naturalization benefit to persons who served in certain geographic areas and the record showed that the President would not have designated the campaign as a period of hostilities without the geographic limitations
Naturalization of Natives of the Philippines (WWII Service), Sec. 405 of Pub. L. 101-649
- Addressed by Congress in 1990 by amending INA 329 (IMMACT90) - Such veterans were exempted from the requirement of having been admitted to lawful permanent residence to the United States or having enlisted or reenlisted in the United States

[113] See Executive Order 12582 signed on February 2, 1987 (52 FR 3395, February 4, 1987). In consideration of *Matter of Reyes*, 910 F. 2d 611 (9th Cir. 1990), Executive Order 12582 was revoked by Executive Order 12913, effective February 2, 1987, (59 FR 23115, May 4, 1994).

- Subsequent amendments enabled naturalization processing to be conducted in the Philippines
- Only applied to applications filed by February 2, 1995

Hmong Veterans' Naturalization Act of 2000

- For Hmong guerilla units that aided the U.S. military during the Vietnam War era.
- Provided an exemption from the English language requirement and special consideration for civics testing for Laotian refugees who supported the U.S. armed forces as members of guerrilla or irregular forces in Laos during the Vietnam War period of hostilities
- Only applied to naturalization applications filed by a veteran or spouse, within three years after May 26, 2000, or by a veteran's widow within three years after November 1, 2000

National Defense Authorization Act for Fiscal Year 2004 (Pub. L. 108-136)

- Pub. L. 108-136 was enacted on November 24 ,2003 and amended certain military-related immigration provisions of the INA, to include:
- Reduced the required period of military service from three years to one year under INA 328
- Exempted all fees from naturalization applications filed under INA 328 and 329 by eligible service members and certain veterans
- Added provision that citizenship obtained through INA 328 or 329 may be revoked if the person is separated from the U.S. armed forces under other than honorable conditions before the person has served for a period or periods aggregating five years
- Added under 8 U.S.C. 1443a that DHS must ensure that any filings, interviews, oath ceremonies, or other proceedings relating to naturalization of service members and certain military family members are available abroad through U.S. embassies, consulates, and U.S. military installations overseas as practical
- Extended benefits under INA 329(a) to those who serve or served as a member of the Selected Reserve of the Ready Reserve
- Extended certain immigration benefits to surviving spouses, children and parents of U.S. citizen service members (including those granted citizenship posthumously under INA 329A)[114]

National Defense Authorization Act for Fiscal Year 2008 (Pub. L. 110-181)

- Pub. L. 110-181 was enacted on January 28, 2008 and amended certain military-related immigration provisions of the INA focused on qualifying spouses or children of members of the U.S. armed forces, to include:
- Added INA 284(b) to make clear that the Lawful Permanent Resident status of a service member's spouse or child is not jeopardized because the spouse or child resided abroad, as authorized by official orders, with the service member. This provision clarifies that USCIS must not treat such absences as abandonment or relinquishment of the spouse or child's Lawful Permanent Resident (LPR) Status[115]

[114] See Sec. 1703 of PL 108-136.
[115] See forthcoming Volume 7, Adjustment of Status. See Sec. 673 of PL 110-181.

- Added INA 319(e) to allow the LPR spouse of a service member to count any qualifying time spent abroad on official orders as continuous residence and physical presence in the United States. Also permits the spouse to complete the naturalization process overseas - Added INA 322(d) to allow the U.S. citizen parent and service member of a child filing for naturalization to count time abroad under military orders as physical presence in the United States. Also permits the child to complete the naturalization process overseas
Kendell Frederick Citizenship Assistance Act (KFCAA) (Pub. L. 110-251)
- The KFCAA was enacted on June 26, 2008 - Requires DHS to use the fingerprints provided by an individual at the time the individual enlisted in the U.S. armed forces (referred to as "OPM" or "enlistment" fingerprints) or fingerprints the applicant previously submitted to USCIS for another application to satisfy the fingerprint requirement - If DHS determines that new biometrics would result in more timely and effective adjudication of the individual's naturalization application, DHS must inform the applicant of this determination and provide the applicant with information on how to submit fingerprints. - Requires USCIS to adjudicate applications for naturalization filed by active-duty members of the U.S. armed forces serving abroad within 180 days of the receipt of responses to all background checks
Military Personnel Citizenship Processing Act (MPCPA) (Pub. L. 110-382)
- The MPCPA was enacted on October 9, 2008 - Requires USCIS to complete applications for naturalization filed by service members (and certain spouses) within six months of receipt or notify the applicant of the delay - Six-month notification letters must include the reason for delay and an estimated adjudication date