

REQUIREMENTS FOR US CITIZENSHIP

DISCLAIMER

The following advice is provided by **Doland & Fraade** for informational purposes only and is intended to be used as a guide prior to consultation with an attorney familiar with your specific legal situation. This is not a substitute for the advice of an attorney.

Age

Applicants must be at least 18 years old.

Residency

An applicant must have been lawfully admitted to the United States for permanent residence. Lawfully admitted for permanent residence means having been legally accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws. Individuals who have been lawfully admitted as permanent residents will be asked to produce an I-551, Alien Registration Receipt Card, as proof of their status.

Residence and Physical Presence

An applicant is eligible to file if, immediately preceding the filing of the application, he or she:

- has been lawfully admitted for permanent residence;
- has resided continuously as a lawful permanent resident in the U.S. for at least 5 years prior to filing with absences from the United States totaling no more than one year;
- has been physically present in the United States for at least 30 months out of the previous five years (absences of more than six months but less than one year break the continuity of residence unless the applicant can establish that he or she did not abandon his or her residence during such period);
- has resided within a state or district for at least three months.

Good Moral Character

Generally, an applicant must show that he or she has been a person of good moral character for the statutory period (typically five years or three years if married to a U.S. citizen or one year for Armed Forces expedite) prior to filing for naturalization. The Service is not limited to the statutory period in determining whether an applicant has established good moral character. An applicant is permanently barred from naturalization if he or she has ever been convicted of

murder. An applicant is also permanently barred from naturalization if he or she has been convicted of an aggravated felony as defined in section 101(a)(43) of the Act on or after November 29, 1990. A person also cannot be found to be a person of good moral character if during the last five years he or she:

- has committed and been convicted of one or more crimes involving moral turpitude
- has committed and been convicted of 2 or more offenses for which the total sentence imposed was 5 years or more
- has committed and been convicted of any controlled substance law, except for a single offense of simple possession of 30 grams or less of marijuana
- has been confined to a penal institution during the statutory period, as a result of a conviction, for an aggregate period of 180 days or more
- has committed and been convicted of two or more gambling offenses
- is or has earned his or her principal income from illegal gambling
- is or has been involved in prostitution or commercialized vice
- is or has been involved in smuggling illegal aliens into the United States
- is or has been a habitual drunkard
- is practicing or has practiced polygamy
- has willfully failed or refused to support dependents
- has given false testimony, under oath, in order to receive a benefit under the Immigration and Nationality Act.

An applicant must disclose all relevant facts to the Service, including his or her entire criminal history, regardless of whether the criminal history disqualifies the applicant under the enumerated provisions.

Attachment to the Constitution

An applicant must show that he or she is attached to the principles of the Constitution of the United States.

Language

Applicants for naturalization must be able to read, write, speak, and understand words in ordinary

usage in the English language. Applicants exempt from this requirement are those who on the date of filing:

- have been residing in the United States subsequent to a lawful admission for permanent residence for at least 15 years and are over 55 years of age;
- have been residing in the United States subsequent to a lawful admission for permanent residence for at least 20 years and are over 50 years of age; or
- have a medically determinable physical or mental impairment, where the impairment affects the applicant's ability to learn English.

United States Government and History Knowledge

An applicant for naturalization must demonstrate a knowledge and understanding of the fundamentals of the history and of the principles and form of government of the United States. Applicants exempt from this requirement are those who, on the date of filing, have a medically determinable physical or mental impairment, where the impairment affects the applicant's ability to learn U.S. History and Government.

Applicants who have been residing in the U.S. subsequent to a lawful admission for permanent residence for at least 20 years and are over the age of 65 will be afforded special consideration in satisfying this requirement.

Oath of Allegiance

To become a citizen, one must take the oath of allegiance. By doing so, an applicant swears to:

- support the Constitution and obey the laws of the U.S.;
- renounce any foreign allegiance and/or foreign title; and
- bear arms for the Armed Forces of the U.S. or perform services for the government of the U.S. when required.

In certain instances, where the applicant establishes that he or she is opposed to any type of service in armed forces based on religious teaching or belief, USCIS will permit these applicants to take a modified oath.

Spouses of U.S. Citizens

Generally, certain lawful permanent residents married to a U.S. citizen may file for naturalization after residing continuously in the United States for three years if immediately preceding the filing of the application:

- the applicant has been married to and living in a valid marital union with the same U.S. citizen spouse for all three years;
- the U.S. spouse has been a citizen for all three years and meets all physical presence and residence requirements; and
- the applicant meets all other naturalization requirements.

There are also exceptions for lawful permanent residents married to U.S. citizens stationed or employed abroad. Some lawful permanent residents may not have to comply with the residence or physical presence requirements when the U.S. citizen spouse is employed by one of the following:

- the U.S. Government (including the U.S. Armed Forces);
- American research institutes recognized by the Attorney General;
- recognized U.S. religious organizations;
- U.S. research institutions;
- an American firm engaged in the development of foreign trade and commerce of the United States; or
- certain public international organizations involving the United States.