



July 18, 2024

PA-2024-21

## Policy Alert

SUBJECT: Children’s Acquisition of Citizenship Provisions

### Purpose

U.S. Citizenship and Immigration Services (USCIS) is issuing policy guidance in the [USCIS Policy Manual](#) regarding provisions for children’s acquisition of citizenship.

### Background

The Immigration and Nationality Act (INA) provides that U.S. citizens may transmit citizenship to their children born outside of the United States in certain circumstances.<sup>1</sup> Children who were born outside of the United States to a U.S. citizen parent or parents may obtain U.S. citizenship at birth.<sup>2</sup> Children may also obtain citizenship after birth, but before the age of 18, through their U.S. citizen parent or parents.<sup>3</sup>

USCIS is updating Policy Manual guidance relating to children’s acquisition of citizenship in response to public feedback.<sup>4</sup> USCIS is also updating guidance based on the U.S. Supreme Court decision in *Sessions v. Morales-Santana*<sup>5</sup> and clarifying other provisions related to acquisition of citizenship.

This guidance, contained in Volume 12 of the Policy Manual, is effective immediately, and applies to applications that are pending or filed on or after the date of publication. This guidance replaces the guidance found in Chapter 83.5 of the Adjudicator’s Field Manual (AFM), related AFM appendices, and any related policy memoranda. The guidance contained in the Policy Manual is controlling and supersedes any related prior guidance on the topic.

### Policy Highlights

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<sup>1</sup> See [INA 301](#), [INA 309](#), and [INA 320](#).

<sup>2</sup> See [INA 301](#) and [INA 309](#).

<sup>3</sup> See [INA 320](#) and former INA 321 (repealed by the Child Citizenship Act of 2000). See also [INA 322](#) for naturalization of children residing outside the United States.

<sup>4</sup> On April 19, 2021, USCIS issued the Identifying Barriers Across U.S. Citizenship and Immigration Services (USCIS) Benefits and Services; Request for Public Input (RPI), to seek public opinion regarding how to reduce administrative barriers and burdens that impede access to immigration benefits. See [86 FR 20398](#) (Apr. 19, 2021). In response to this RPI, USCIS received feedback requesting clarification on how USCIS applies the physical presence requirements for unwed mothers for children born out of wedlock to two U.S. citizen parents.

<sup>5</sup> See [Sessions v. Morales-Santana](#), 582 U.S. 47 (2017).

- Affirms that applicants who already filed an application for a Certificate of Citizenship and were denied, but became eligible following a change in USCIS policy, may file a motion to reopen the prior USCIS denial of their application.
- Clarifies that a U.S. citizen parent may meet the requirement of physical presence in the United States (or outlying possession) before the child’s birth regardless of immigration status.
- Clarifies that in cases where a child is born out of wedlock to two U.S. citizen parents and cannot acquire U.S. citizenship from the father, the mother meets the requirement by demonstrating 1 year of continuous physical presence in the United States or one of its outlying possessions before the child’s birth.
- Affirms that, for purposes of acquiring citizenship at birth, USCIS requires that a parent must be recognized as a legal parent of the child by the relevant jurisdiction at the time of the child’s birth.
- Clarifies that a child acquires citizenship under statutes requiring all conditions to be met while the child is under 18 years of age if the last condition was satisfied on the day of the child’s 18th birthday. Similarly, a child is eligible to obtain citizenship under INA 322 if USCIS approves the application and the child takes the oath (if required) on the day of the child’s 18th birthday.
- Confirms that USCIS accepts a valid and unexpired U.S. passport or a Consular Report of Birth Abroad (CRBA) as evidence of U.S. citizenship. However, USCIS also determines whether the applicant properly acquired U.S. citizenship and if necessary, may request that DOS revoke the U.S. passport or cancel the CRBA before USCIS adjudicates an application for a Certificate of Citizenship.
- Clarifies processes when USCIS, in addition to applicant’s claim of U.S. citizenship, adjudicates claims to U.S. citizenship for applicant’s parents or grandparents (sometimes called “nested claims of U.S. citizenship”). When adjudicating applications for a Certificate of Citizenship, if an applicant’s parent or parents’ U.S. citizenship is unknown or unclear, the officer must determine the applicant’s parents’ (and, if necessary, grandparents’) U.S. citizenship status before adjudicating the applicant’s citizenship claim.
- Clarifies that for purposes of an application for naturalization filed under the provision for children of a U.S. citizen who subjected them to battery or extreme cruelty, a stepchild’s relationship with the U.S. citizen stepparent does not need to continue to exist at the time of the application for naturalization.
- Adds new guidance on how to calculate physical presence in U.S. territorial waters and provides several updates to Nationality Charts 1, 2, 3, and 4.

## **Summary of Changes**

Affected Section: Volume 12 > Part H > Chapter 1, Purpose and Background

- Revises footnotes 6 in Section B (Background) and 7 in Section C (Table of General Provisions).
- Revises table in Section C (General Provisions for Acquisition of Citizenship for Children Born Abroad) in various areas, including adding a new row and footnotes in rows “320” and “321.”

Affected Section: Volume 12 > Part H > Chapter 2, Definition of Child and Residence for Citizenship and Naturalization

- Adds footnotes in Section A (Definition of Child) to clarify applicability of policy and legal parentage and revises existing footnote on legitimation.
- Revises third paragraph in Section B (Legitimated Child) to clarify relevant laws for legitimation.
- Revises the title of Section E from “Definition of U.S. Residence” to “Definitions of U.S. Residence and Physical Presence” and makes other various revisions throughout the section.

Affected Section: Volume 12 > Part H > Chapter 3, U.S. Citizens at Birth (INA 301 and 309)

- Adds content in Section A (General Requirements for Acquisition of Citizenship at Birth) and makes various revisions throughout Sections B, C, and D.

Affected Section: Volume 12 > Part H > Chapter 4, Automatic Acquisition of Citizenship after Birth (INA 320)

- Adds a footnote in Section A (General Requirements: Child Automatically Acquiring Citizenship after Birth) to the second bullet of the list.
- Revises Section E (Application for Certificate of Citizenship (Form N-600)) significantly, to include adding two new subsections (“U.S. Passport or Consular Report of Birth Abroad as Evidence of Citizenship” and “Request to Revoke U.S. Passport or Cancel Consular Report of Birth Abroad”) and redesignates existing subsection 2 (Photographs and Signature) to 4.

Affected Section: Volume 12 > Part H > Chapter 5, Child Residing Outside of the United States (INA 322)

- Revises title chapter to now read “Child Residing Outside the United States (INA 322).”
- Moved the footnote from the header to the body of the text in Section A (General Requirements: Child Residing Outside the United States)
- Adds a footnote reference in the third bullet of the list in the second paragraph.
- Reorganizes Section F (Application for Citizenship and Issuance of Certificate under Section 322 (Form N-600K)) in its entirety, to include creating three subsections.

Affected Section: Volume 12 > Part H > Chapter 6 > Section A, Children Subjected to Battery or Extreme Cruelty

- Revises the last two paragraphs in Subsection 1 (Eligibility for Special Provision).

Affected Section: Volume 12 > Part H > Appendices

- In Nationality Chart 1, Children Born Outside the United States in Wedlock, adds a retention requirement for children born “On or After May 24, 1934 and Prior To Jan. 13, 1941” and “On or After Jan. 13, 1941 and Prior To Dec. 24, 1952” with respective footnotes and also deletes footnote 10 and revises footnotes 11 and 12.
- In Nationality Chart 2, Children Born Outside the United States Out of Wedlock, revises content in tables 1, 2, and 4. Most revisions in Nationality Chart 2 are made regarding the physical presence requirement of the U.S. citizen mother.
- In Nationality Chart 3, Derivative Citizenship of Children, revises the language on adopted children for the period “On or After Dec. 24, 1952 and Prior To Oct. 5, 1978,” as well as adds two footnotes in rows “On or After Dec. 24, 1952 and Prior To Oct. 5, 1978” and “On or After Oct. 5, 1978 and Prior To Feb. 27, 2001,” under the second column.
- In Nationality Chart 4, Children of U.S. Citizens Regularly Residing Outside United States (INA 322), revises to clarify the language about the physical presence requirement of the U.S. citizen grandparent, under the second column.

USCIS may also make other minor technical, stylistic, and conforming changes consistent with this update.

### **Citation**

Volume 12: Citizenship and Naturalization, Part H, Children of U.S. Citizens [[12 USCIS-PM H](#)] (Chapters 1-6).