

U.S. Citizenship and Naturalization

Citizens of the United States are entitled to live and work permanently in the U.S., vote in U.S. elections, serve on court juries, and hold a U.S. passport. Citizens can sponsor spouses, unmarried children under age 21, and parents for U.S. permanent residence (green card). These relatives can file for permanent resident status or immigrant visas immediately.

Permanent Residents applying for citizenship must demonstrate good moral character, accept the principles of the U.S. Constitution, be willing to bear arms on behalf of the U.S. or perform other work of national importance, and must not otherwise be barred from citizenship, such as having committed certain crimes or immigration violations. All naturalization applicants will be fingerprinted by the USCIS and have their criminal backgrounds reviewed by the FBI.

The applicant must pass a test of the basic ability to read, write, speak, and understand English. The applicant must also pass an oral test on the history and government of the U.S. and must be interviewed in person by a USCIS officer. An individual may acquire U.S. citizenship in a variety of ways:

1. Birth in the United States

Children born in the U.S. are automatically U.S. citizens, regardless of the immigration status of their parents.

2. Birth outside the U.S. to a U.S. citizen parent

Certain children automatically acquire U.S. citizenship from the moment of their birth if one of the parents has met the requirement of physical presence in the U.S. for a certain period of time (determined by the date of birth of the child).

3. Naturalization of parents

A child born outside the U.S. may automatically become a U.S. citizen if 1) the child is a lawful permanent resident, 2) one of the parents becomes a U.S. citizen prior to the child's 18th birthday and 3) the child is residing in the U.S. in the legal custody of the U.S. citizen parent.

4. Children born and residing outside the U.S.

Certain children under 18 years of age who are residing outside the U.S. and have a U.S. citizen parent (or US citizen grandparent or U.S. citizen legal guardian if the U.S. citizen parent died during the 5 years preceding the application) may apply for a certificate of citizenship. This type of application also requires physical presence in the U.S. of the parent for certain time periods.

5. Adoption by U.S. citizen parents

Certain children formally and legally adopted *and* in the physical custody of their U.S. citizen parents for at least two years may acquire U.S. citizenship. The child must be under the age of 16 at the time of the adoption.

6. Naturalization

The general rule is that anyone over the age of 18 who has been a lawful permanent resident for at least five (5) years may apply for naturalization 90 days before the end of the 5th year or at any time afterwards. The applicant must have been physically present in the U.S. for at least 30 months out of the five years prior to the date of filing of the application and must have resided for at least three months within the state in which the application is filed.

An individual who has been married to a U.S. citizen for 3 years may file for naturalization 90 days minus 3 years from the date lawful permanent or conditional resident status is granted (or later). The individual must have been physically present in the U.S. for ½ the 3-year time period.

Longtime Permanent Residents (Rule of 70)

Persons *over 50* and living in the U.S. as a permanent resident for 20 years or persons who are *over 55* years of age and living in the U.S. as a permanent resident for 15 years do not have to take the English test but will be required to take civics test in their language of choice. Special consideration is also given to persons over 65 with 20 years as Lawful Permanent Residents as these applicants are given 10 out of 25 civic questions in the person's language and will have to answer 6 correctly.

After the applicant is approved for naturalization, the applicant will attend a public ceremony and take the Oath of Allegiance to the United States. After taking the oath, the applicant will return the permanent resident/green card to the USCIS and receive a certificate of naturalization. This certificate of naturalization is evidence of citizenship and used to apply for a U.S. passport.

There are many special exceptions and provisions of the law for applicants for naturalization. Please consult your attorney regarding which options may be applicable to your case.

Documents needed to file for Naturalization

- ❑ Photocopy of front and back of permanent resident card
- ❑ Original birth certificate
- ❑ All pages of current passport
- ❑ Current driver's license
- ❑ IRS printout as evidence of tax filings (5 years or 3 years if married to USC) 800-829-1040 (Your Personal Account information and follow instructions)
- ❑ Proof of taxes paid for all tax years submitted (IRS I-1722 or cancelled checks)
- ❑ Court-certified criminal records (if applicable)
- ❑ Proof of payment of traffic tickets (if applicable)
- ❑ Selective Service (SSA) registration (if applicable)
- ❑ If application is based on marriage to a USC for 3 years: Evidence of the marriage
 - Birth certificates for children born of the marriage
 - Mortgage or lease in both names, other evidence of marriage.
- ❑ USCIS filing fee and biometrics fee

Fong•Ilgan, LLP works with clients to simplify the citizenship process. To discuss your case with a board-certified attorney, please contact our office at 713-772-2300.