

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; and
- 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.

Military members and their families may call the Military Help Line for assistance: 1-877-CIS-4MIL (1-877-247-4645).

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.

Congress and the President have continued to express interest in legislation to expand the citizenship benefits of aliens 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.

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 lawful permanent resident (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]

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

Footnotes

[^ 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: History of Acquiring Citizenship under INA 320 for Children of U.S. Citizens who are Members of the U.S. Armed Forces, U.S. Government Employees, or their Spouses [12 USCIS-PM I.1, Appendices Tab] for a table listing legislation affecting military members and their families.

[^ 3] See Chapter 2, One Year of Military Service during Peacetime (INA 328) [12 USCIS-PM I.2].

[^ 4] See Chapter 3, Military Service during Hostilities (INA 329) [12 USCIS-PM I.3].

[^ 5] See INA 329A. See the Posthumous Citizenship for Active-Duty Service Act of 1989, Pub. L. 101-249 (PDF), 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 (PDF), 117 Stat. 1392.

[^ 6] See Executive Order 13269 signed on July 3, 2002 (67 FR 45287, July 8, 2002) (PDF). See INA 329.

[^ 7] See the National Defense Authorization Act for Fiscal Year 2004, Pub. L. 108-136 (PDF), 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).

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

[^ 13] See Chapter 6, Required Background Checks [12 USCIS-PM I.6]. See the Kendell Frederick Citizenship Assistance Act of 2008, Pub. L. 110-251 (PDF), 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 (PDF), 122 Stat. 4087.

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.”^[1] 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,^[2] 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 at any time in the U.S. armed forces for a period or periods totaling at least 1 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.

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 Space Force. Service in the National Guard may also qualify.^[3] 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. In general, international cadets attending U.S. military academies are not considered to have served in the U.S. armed forces.^[4]

INA 328 requires both honorable service and, if separated, that the applicant has been separated under honorable conditions.^[5] If the applicant has multiple separations from service, each separation must be under honorable conditions, including discharges from periods of service not relied upon for naturalization purposes.^[6]

“Honorable,” “General-Under Honorable Conditions,” and “Uncharacterized”^[7] discharge types qualify as a separation under honorable conditions for immigration purposes. Other discharge types, such as “Other Than Honorable,” “Bad Conduct,” and “Dishonorable,” do not qualify as a separation under honorable conditions.

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.^[8]

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.^[9]

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.^[10] 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.^[11]

An applicant with military service who does not qualify on the basis of one year of military service^[12] 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.^[13]

Footnotes

[^ 1] See INA 328.

[^ 2] See INA 316(a) for the general naturalization requirements. See Part D, General Naturalization Requirements [12 USCIS-PM D].

[^ 3] See Section C, National Guard Service [12 USCIS-PM I.2(C)].

[^ 4] In general, a military academy cadet who is a U.S. citizen or national is considered to be serving in the U.S. armed forces, but international cadets attending U.S. military academies are not considered as having served in the U.S. armed forces. This is because international cadets, sponsored by their home country, are generally considered to be serving in their home country's military and are obligated to serve in their home country upon graduation.

[^ 5] See INA 328(a).

[^ 6] See INA 328(a). See INA 328(b)(3).

[^ 7] See Enlisted Administration Separations (PDF), U.S. Department of Defense Instruction No. 1332.14, Enclosure 4, Section 3(c)(1)(c), signed January 27, 2014 (effective Sept 1, 2021) (“With respect to administrative matters outside this instruction that require a characterization as honorable

or general, an entry-level separation will be treated as the required characterization.”). See *Alam v. USCIS, et al.*, __ F.Supp.3d __ (D.Minn. Mar. 21, 2022).

[^ 8] 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 [12 USCIS-PM I.3(C)].

[^ 9] See INA 328. See 8 CFR 328.2.

[^ 10] See INA 316(a) and INA 328(d). See Part D, General Naturalization Requirements [12 USCIS-PM D].

[^ 11] See INA 328(d).

[^ 12] See INA 328.

[^ 13] 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 [12 USCIS-PM D.6].

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.^[1]

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 a lawful permanent resident (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,^[2] 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 1 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 United States 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.^[3]

As with all cases, all pertinent background checks, including applicable U.S. Department of Defense (DOD) checks (if required)^[4] must be completed before USCIS may interview the naturalization applicant.

B. Honorable Service

1. Qualifying Military 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, Space Force, or Coast Guard. Service in the National Guard may also qualify.^[5] In general, international cadets attending U.S. military academies are not considered to have served in the U.S. armed forces.^[6]

Honorable service means 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.

INA 329 requires both honorable service and, if the applicant has separated from service, a separation under honorable conditions.^[7] "Honorable," "General-Under Honorable Conditions," and "Uncharacterized"^[8] discharge types qualify as a separation under honorable conditions for immigration purposes. Other discharge types, such as "Other Than Honorable," "Bad Conduct," and "Dishonorable," do not qualify as a separation under honorable conditions.

2. Multiple Periods of Service

Applicants who have multiple periods of service must demonstrate that they have at least one qualifying period of service to establish eligibility under INA 329. A qualifying period of service is a period of service during which the applicant served honorably as a member of the Selected Reserve of the Ready Reserve or on active duty in the U.S. armed forces during a designated period of hostilities, and if separated, was separated under honorable conditions.

Therefore, an applicant who was separated under honorable conditions from a qualifying period of service may be eligible for naturalization under INA 329 even if the applicant received a different type of discharge from any other period of service, including during a designated period of hostilities.

For example, an applicant may have enlisted in October 1975, and served honorably on active duty for one entire period of service until 1978. The applicant is honorably discharged and immediately reenlists for a second period of service for 2 more years starting in 1978 and ending in 1980. During the second period of service (1978-1980), the applicant is discharged under "other than honorable conditions." This applicant, if able to demonstrate good moral character and meet all other naturalization requirements, is eligible to naturalize under INA 329 based on the first qualifying period of service (1975-1978).

Similarly, an applicant who was previously separated with a discharge type that was not under honorable conditions, but subsequently reenlisted or was reinstated to service, may qualify for naturalization based upon the subsequent qualifying period of service if the executive department under which the applicant performed the subsequent period of service certifies that the applicant served honorably and, if separated, was separated under honorable conditions.

3. Certification by Executive Department

The executive department provides its certification on the Request for Certification of Military or Naval Service (Form N-426) and, in the case of an applicant who has separated from service, on the Certificate of Release or Discharge from Active Duty (DD Form 214), Report of Separation and Record of Service (NGB Form 22), or other official discharge document.

C. National Guard Service

An applicant filing on the basis of military service during hostilities^[9] who has National Guard service may qualify if the applicant has honorable service in either the U.S. armed forces or in the Selected Reserve of the Ready Reserve.^[10] 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.^[11]

The National Guard determines when one of its members is a member of the Selected Reserve of the Ready Reserve; however, most National Guard members adhere to Selected Reserve training requirements and are members of the Selected Reserve of their respective services.

When a National Guard member is a member of the Selected Reserve of the Ready Reserve, the member may apply for naturalization under INA 329 based on that service, if otherwise eligible. The applicant does not need to have active duty service or be part of the National Guard during such time as the unit is federally recognized as a reserve component of the armed forces in order to qualify under INA 329.

D. Designated Periods of Hostilities

The Immigration and Nationality Act (INA) and Presidential Executive Orders have designated the following military engagements and ranges of dates as periods of hostilities.^[12]

Designated Periods of Hostilities			
World War I ^[13]	April 6, 1917	→	November 11, 1918
World War II ^[14]	September 1, 1939	→	December 31, 1946
Korean Conflict ^[15]	June 25, 1950	→	July 1, 1955
Vietnam Hostilities ^[16]	February 28, 1961	→	October 15, 1978
Persian Gulf Conflict ^[17]	August 2, 1990	→	April 11, 1991
War on Terrorism ^[18]	September 11, 2001	→	Present

On July 3, 2002, President George W. Bush issued Executive Order 13269, which has designated a period of hostilities and has permitted the expedited naturalization for aliens eligible under INA 329 as of September 11, 2001. The current designated period continues to be a designated period of hostilities for INA 329 purposes until the President issues a new Executive Order terminating the designation.^[19]

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^[20] 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^[21] 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 Conditions on Residence (Form I-751) before his or her Application for Naturalization (Form N-400) may be approved.

G. Department of Defense Military Accessions Vital to National Interest Program

The general guidance in this section is from information provided by the Department of Defense (DOD) on its former Military Accessions Vital to National Interest (MAVNI) program. USCIS is providing this general information in the Policy Manual to assist current and former service members and their families.^[22]

1. Military Accessions Vital to National Interest Program

In 2009, DOD authorized the MAVNI pilot program as a recruitment tool to enlist certain nonimmigrants and other aliens who had skills that were considered vital to the national interest of the United States.^[23] The program applies to certain health care professionals and aliens who were fluent in certain foreign languages.^[24]

An alien entering active duty status or service in the Selected Reserve of the Ready Reserve may apply for military naturalization after the alien's Request for Certification of Military or Naval Service (Form N-426) has been properly authorized, completed, and signed by the appropriate person authorized by DOD.^[25] USCIS is unable to adjudicate a naturalization application for current service members without a properly submitted Form N-426.

Calixto Settlement Agreement Applicants

On September 22, 2022, the U.S. Army entered into a settlement agreement to settle *Calixto, et al., v. U.S. Dep't of the Army, et al.* (Calixto Agreement).^[26] In the settlement agreement, the Army agreed to certify Forms N-426 for certain Army enlistees, including some enlistees who never began a qualifying period of service in the Army. By certifying the Form N-426, the Army is certifying that the enlistees served honorably on active duty or in the Selected Reserve of the Ready Reserve during a designated period of hostilities such that the enlistees could apply for military naturalization under INA 329.

Certain applicants who enlisted in the U.S. Army, including the Selected Reserve of the Ready Reserve Delayed Training Program (DTP) or Regular Army Delayed Entry Program (DEP), through the MAVNI pilot program on or before September 30, 2017, may receive a certified Form N-426 under the terms of the Calixto Agreement. Such applicants become eligible to apply for naturalization under INA 329 as a result of the certified Form N-426, even before attending initial entry training.

Under the Calixto Agreement,^[27] if the applicant was not discharged as of September 22, 2022 or had received an uncharacterized discharge from the U.S. Army by that date, the Army considers the applicant to have served honorably and certifies a Form N-426 on their behalf even if they did not attend initial entry training.

Applicants are required to submit a certified Form N-426 signed by a person authorized by the U.S. Army to certify the form. Applicants may also provide a copy of the September 22, 2022, Calixto Agreement with their naturalization application and with their certified Form N-426 as a substitute for identifying the type and duration of service in the Form N-426, and as evidence of honorable service or an under honorable conditions discharge.^[28] Including the agreement and annotating on the Application for Naturalization (Form N-400) and Form N-426 with "Calixto" at the top helps USCIS identify class members and provide for more efficient processing.^[29]

2. General Eligibility Requirements

Eligible Candidates

To be eligible for the MAVNI program, the DOD requires applicants to be in one of the following immigration categories or authorized stays at the time of enlistment into the U.S. armed forces:

- Asylee;
- Refugee;
- Beneficiary of Temporary Protected Status (TPS);
- Person granted deferred action by USCIS under the Deferred Action for Childhood Arrivals (DACA) policy; or
- Nonimmigrant in any of the following categories: E, F, H, I, J, K, L, M, O, P, Q, R, S, T, TC, TD, TN, U, or V.

Valid Status for 2 Years

The DOD requires most applicants for MAVNI to have been in a valid status in one of the eligible immigration categories or authorized stays listed above for at least 2 years immediately preceding the date of enlistment. The applicant is not required to be in the same qualifying category or authorized stay listed above for those 2 years on the date of enlistment.

The DOD may exempt or waive the 2-year requirement for certain applicants. Specifically, the DOD does not require DACA recipients to meet the 2-year requirement. In addition, the DOD will consider waiving the requirement that an applicant to the MAVNI program be in valid immigration status or within a period of authorized stay at the time of enlistment on a case-by-case basis under certain circumstances.^[30]

3. Other Factors to Consider

Nonimmigrants and Absences from United States

Under DOD guidance, most applicants to the MAVNI program under a qualifying nonimmigrant category at the time of enlistment must not have been absent from the United States for more than 90 days during the 2-year period immediately preceding the date of enlistment.^[31] The DOD does not apply this 90-day limitation on absences to DACA recipients.

Foreign Residency Requirement

A nonimmigrant exchange visitor under the J nonimmigrant visa classification may be eligible to apply for the MAVNI program with the DOD. Certain nonimmigrant exchange visitors are subject to a statutory foreign residence requirement.^[32] J exchange visitors who enlist in the military through the MAVNI program are not required to comply with the foreign residence requirement in order to naturalize.^[33] In addition, the dependent spouse or child of the exchange visitor is not required to comply with the foreign residence requirement.^[34]

Adjustment of Status Applicants

The DOD does not disqualify otherwise eligible applicants to the MAVNI program by virtue of having a pending adjustment of status application with USCIS.^[35]

H. Veterans Residing Outside the United States

Admission or Parole into United States for Naturalization Interview

Applicants who reside outside the United States and have separated from the military are required to appear for an interview in the United States.^[36] All aliens must be inspected and admitted or paroled in order to enter the United States.^[37]

If seeking parole into the United States, the applicant may file the naturalization application concurrently with an Application for Travel Documents, Parole Documents, and Arrival/Departure Records (Form I-131) without a fee to seek an advance parole document for a humanitarian or significant public benefit parole before entering the United States, if necessary.^[38] USCIS coordinates with the applicant to schedule an interview date and location.

Documentation

An applicant who is concurrently seeking naturalization and an advance parole document must provide all the required documentation to establish eligibility for naturalization with Application for Naturalization (Form N-400),^[39] including a police clearance from every place of residence outside the United States within 1 year of filing the naturalization application. In addition, the applicant is required to provide documentation to establish eligibility for an advance parole document with Form I-131, including submitting an Affidavit of Support (Form I-134).^[40]

USCIS will inform the applicant if they need to submit biometrics in connection with the naturalization application at an authorized site such as a U.S. embassy, U.S. consulate, or U.S. military installation.

In addition, the applicant submitting Form I-131^[41] is required to provide documentation to establish eligibility for an advance parole document.

Land Port of Entry

At its discretion, USCIS may coordinate with U.S. Customs and Border Protection (CBP) to facilitate a naturalization interview at a land port of entry, if necessary. USCIS notifies and coordinates with the applicant to schedule an appointment and process the naturalization application. If the application is approved, the applicant may be administered the Oath of Allegiance at the port of entry unless a court has exclusive authority to administer the oath.^[42]

Failure to Appear at Interview

USCIS considers the applicant to have abandoned his or her application and administratively closes the application in cases where the applicant:

- Fails to appear at his or her scheduled naturalization interview at a port of entry; and
- Fails to notify USCIS of the reason for nonappearance within 30 days of the scheduled interview.

USCIS considers subsequent correspondence from an applicant within 1 year of the administrative closure a request to reopen the application.^[43]

Jurisdiction

The USCIS office having jurisdiction over the applicant's last residence within the United States or Outlying Possession (OLP) maintains jurisdiction over the naturalization application.^[44] If there is no evidence in the application to establish the applicant's last place of residence in the United States or OLP, the field office should review the service record for the address of record at the time of departure.

If the applicant requests to have the naturalization interview conducted at a USCIS office other than the office having jurisdiction based on the applicant's last residence, or at a port of entry, the office

having jurisdiction may coordinate, if practicable, with the appropriate office to accommodate the request. Even if such a request for an interview is approved, the original office retains jurisdiction over the adjudication of the naturalization application. If USCIS determines that the applicant will be interviewed at a port of entry, the office retaining jurisdiction may elect to travel to the port of entry to conduct the interview or coordinate with the field office closest to the port of entry to conduct the interview.

Footnotes

[¹] See INA 329.

[²] Includes the continental United States, Alaska, Hawaii, Puerto Rico, Guam, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands. See INA 101(a)(38).

[³] See INA 329(b). See 8 CFR 329.2(e).

[⁴] Including Defense Clearance Investigation Index (DCII) queries. See Chapter 6, Required Background Checks [12 USCIS-PM I.6] for information on background checks and fingerprint requirements for applicants applying for naturalization based on military service. Additionally, in certain cases involving applicants recruited through the Military Accessions Vital to the National Interest (MAVNI) program, USCIS requires DOD background and security checks to be completed and reviews any derogatory information DOD obtained regarding an applicant. USCIS does not require any DOD adjudication of the applicant's suitability for military service, including a Military Service Suitability Recommendation or a Military Service Suitability Determination, to be complete before interviewing or beginning adjudication of a naturalization application, and the outcome of any such DOD adjudication does not determine the outcome of the naturalization adjudication.

[⁵] See Section C, National Guard Service [12 USCIS-PM I.3(C)].

[⁶] In general, a military academy cadet who is a U.S. citizen or national is considered to be serving in the U.S. armed forces, but international cadets attending U.S. military academies are not considered as having served in the U.S. armed forces. This is because international cadets, sponsored by their home country, are generally considered to be serving in their home country's military and are obligated to serve in their home country upon graduation.

[⁷] See INA 329(a). See 8 CFR 329.2(a). See 8 CFR 329.2(b).

[⁸] See Enlisted Administration Separations (PDF), U.S. Department of Defense Instruction No. 1332.14, Enclosure 4, Section 3(c)(1)(c), signed January 27, 2014 (effective Sept 1, 2021) ("With respect to administrative matters outside this instruction that require a characterization as honorable or general, an entry-level separation will be treated as the required characterization."). See *Alam v. USCIS, et al.*, __ F.Supp.3d __ (D.Minn. Mar. 21, 2022).

[⁹] See INA 329.

[¹⁰] See 8 CFR 329.1. See 10 U.S.C. 10143 for more information on the Selected Reserve of the Ready Reserve.

[¹¹] 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 [12 USCIS-PM I.2(C)].

[¹²] See 8 CFR 329.1 and 8 CFR 329.2.

[^ 13] See 8 CFR 329.1 and 8 CFR 329.2. Declared by Joint Resolution of Congress of April 6, 1917 (40 Stat. 429, Ch. 1) and Joint Resolution of Congress, December 7, 1917 (40 Stat. 429, Ch. 1). Armistice signed, November 11, 1918.

[^ 14] See 8 CFR 329.2. See Proclamation No. 2714, Cessation of Hostilities of World War II, 61 Stat. 1048 (December 31, 1946).

[^ 15] See 8 CFR 329.2.

[^ 16] See 8 CFR 329.2. See Exec. Order No. 12081, Termination of Expeditious Naturalization Based on Military Service, 43 FR 42237 (September 18, 1978).

[^ 17] See 8 CFR 329.2. See Exec. Order No. 12939, Expedited Naturalization of Aliens and Noncitizen Nationals Who Served in an Active-Duty Status During the Persian Gulf Conflict, 59 FR 61231 (November 22, 1994).

[^ 18] See 8 CFR 329.2. See Exec. Order No. 13269, Expedited Naturalization of Aliens and Noncitizen Nationals Serving in an Active-Duty Status During the War on Terrorism, 67 FR 45287 (July 3, 2002).

[^ 19] See 8 CFR 329.2. See Exec. Order No. 13269, Expedited Naturalization of Aliens and Noncitizen Nationals Serving in an Active-Duty Status During the War on Terrorism, 67 FR 45287 (July 3, 2002).

[^ 20] See INA 329.

[^ 21] See INA 329.

[^ 22] For further information and details of the DOD program, see the DOD MAVNI Fact Sheet (PDF) or contact the DOD.

[^ 23] The Secretary of Defense authorized the pilot program. See the DOD MAVNI Fact Sheet (PDF).

[^ 24] See sections on health care professionals and eligible languages in the DOD MAVNI Fact Sheet (PDF).

[^ 25] MAVNI enlistees should speak with their commanding officers for additional information regarding the circumstances under which the military departments will sign and certify the Form N-426.

[^ 26] Entered into under *Calixto, et al., v. U.S. Dep't of the Army, et al.*, 1:18-cv-01551 (D.D.C. Sept. 22, 2022).

[^ 27] See *Calixto, et al., v. U.S. Dep't of the Army, et al.*, 1:18-cv-01551 (D.D.C. Sept. 22, 2022).

[^ 28] The settlement agreement may be used as a substitute for identifying the applicant's type of service and periods of service.

[^ 29] For applicants filing online, annotate "Calixto" only on top of Form N-426.

[^ 30] See section on eligibility in the DOD MAVNI Fact Sheet (PDF).

[^ 31] See section on eligibility in the DOD MAVNI Fact Sheet (PDF).

[^ 32] See INA 212(e).

[^ 33] The J exchange visitor is not required to obtain a waiver of the INA 212(e) foreign residence requirement. See INA 329.

[^ 34] A J-1 exchange visitor's dependent spouse or child is issued a J-2 nonimmigrant visa.

[^ 35] See Form I-485, Application to Register Permanent Residence or Adjust Status. See section on eligibility in the DOD MAVNI Fact Sheet (PDF).

[^ 36] USCIS does not have statutory authority to conduct naturalization interviews and oath ceremonies overseas for those veterans who reside outside of the United States. See INA 104(a), which grants U.S. Department of State (DOS) authority to determine the nationality of a person who is outside the United States. See 8 U.S.C. 1443a, which authorizes USCIS to conduct naturalization interviews and oath ceremonies for current members of the U.S. armed forces outside of the United States, but does not extend to veterans.

[^ 37] See INA 235(a)(3). An alien may qualify for parole under INA 212(d)(5).

[^ 38] Both the Form N-400 and Form I-131 are fee exempt for current and former service members. In some cases, such as where an applicant has been deported or removed from the United States, U.S. Immigration and Customs Enforcement (ICE) has jurisdiction over the request for an advance parole document. In those cases, USCIS will send Form I-131 to ICE for adjudication.

[^ 39] See Chapter 5, Application and Filing for Service Members (INA 328 and 329), Section A, Required Forms [12 USCIS-PM 5.A].

[^ 40] See Application for Travel Documents, Parole Documents, and Arrival/Departure Records (Form I-131) and Affidavit of Support (Form I-134). In addition, see the Humanitarian or Significant Public Benefit Parole for Individuals Outside the United States webpage.

[^ 41] See Application for Travel Documents, Parole Documents, and Arrival/Departure Records (Form I-131) and Affidavit of Support (Form I-134). In addition, see the Humanitarian or Significant Public Benefit Parole for Individuals Outside the United States webpage.

[^ 42] See Part J, Oath of Allegiance, Chapter 6, Judicial and Expedited Oath Ceremonies [12 USCIS-PM J.6] for more information about courts exercising exclusive authority to administer the oath. In some cases, the court may refer the applicant to USCIS for an expedited oath ceremony and relinquish exclusive jurisdiction as to that applicant. If that occurs, USCIS may administer the Oath of Allegiance at the port of entry even if the port of entry is located in an area where the court generally has exclusive authority to administer the oath.

[^ 43] See 8 CFR 335.6.

[^ 44] See INA 329. USCIS should not apply the 3- or 5-year residency requirement if the applicant served during a designated period of hostilities.

Chapter 4 - Permanent Bars to Naturalization

A. Exemption or Discharge from Military Service Because of "Alienage"

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 ("alienage discharge") is permanently ineligible for naturalization unless he or she qualifies for an exception (discussed below).

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.

^[2] 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 "alienage."

Certain persons were granted exemptions from the draft for reasons other than alienage, 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 alienage.

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.^[3]

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;^[4]
- 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;^[5]
- 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"^[6] who had served in the armed forces of the country of which he or she was a national.^[7]

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.^[8]

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

Countries with Effective Treaties Providing Reciprocal Exemption from Military Service	
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

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. 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 an alien may impact the applicant's eligibility for naturalization.

Selective Service and military department records are conclusive evidence of service and discharge.

^[9] Proof of an applicant's request and approval for an exemption or discharge from military service because the applicant is an alien may be grounds for denial of the naturalization application.^[10]

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.^[11] 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.^[12]

Footnotes

[^ 1] See INA 315. See 8 CFR 315.2.

[^ 2] 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.

[^ 3] See 8 CFR 315.2(b).

[^ 4] See *In re Watson*, 502 F. Supp. 145 (D.C. 1980).

[^ 5] 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.

[^ 6] “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.

[^ 7] See 8 CFR 315.2(b).

[^ 8] See 8 CFR 315.4.

[^ 9] See 8 CFR 315.3.

[^ 10] See INA 315. See 8 CFR 315.2.

[^ 11] See INA 314.

[^ 12] See Part F, Good Moral Character, Chapter 5, Conditional Bars for Acts in Statutory Period, Section M, Unlawful Acts [12 USCIS-PM F.5(L)].

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.^[1] Service members should file their applications in accordance with the instructions for the Application for Naturalization (Form N-400) and other required forms.

A. Required Forms

An applicant filing for naturalization based on 1 year of honorable military service during peacetime^[2] or honorable service during a designated period of hostility^[3] must complete and submit all of the following to USCIS:

Application for Naturalization (Form N-400)

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

If an applicant filing under a different eligibility provision for naturalization has served in the military, the officer should determine if the applicant may be eligible under a qualifying military basis. If the applicant may be eligible based on the military service, the officer should provide the applicant with the opportunity to seek naturalization on that basis.

If the applicant would like to seek naturalization based on their military service but is ultimately determined not to be eligible on that basis, the officer must consider the applicant’s eligibility under the

original filing basis before issuing a decision. Regardless of the filing basis, USCIS must conduct a Defense Clearance Investigative Index (DCII) query on all applicants who currently serve or have served in the U.S. military.^[4]

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

Form N-426 confirms whether the applicant is serving honorably in an active duty status or in the Selected Reserve of the Ready Reserve. The form may also record whether the applicant has ever obtained a discharge or exemption from military service from the U.S. armed forces on the ground that the applicant is an alien. Only applicants who are currently serving and who are 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 Form N-426 before it is submitted to USCIS. A certifying official must complete and sign the Form N-426 within 6 months of submitting the Form N-400 to USCIS, except in cases where the applicant enlisted in the Selected Reserve of the Ready Reserve through the Military Accessions Vital to National Interest (MAVNI) program before October 13, 2017.^[5]

An applicant who is separated or discharged from the military at the time of filing Form N-400 is not required to submit Form N-426.

Discharge Documents

Applicants who are separated or discharged from the military must submit a photocopy of their Certificate of Release or Discharge from Active Duty (DD Form 214), National Guard Report of Separation and Record of Service (NGB Form 22), or other official discharge document for all periods of service.^[6] The discharge document must list 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.

Applicants who are class members of *Calixto, et al., v. U.S. Dep't of the Army, et al.*^[7] and are applying for military naturalization with a certified Form N-426 they obtained through the settlement agreement^[8] may include a copy of the settlement agreement with their certified Form N-426 and Form N-400 and annotate "Calixto" at the top of both forms.^[9]

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 applications filed under INA 328 or 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.^[10]
- There is no filing fee for current and former service members for an Application for Certificate of Citizenship (Form N-600).^[11]

C. Filing Location and Initial Processing

Like all USCIS benefit requests, naturalization applications filed on the basis of military service should be filed in accordance with the form instructions.^[12] For current members of the military and qualifying family members stationed outside of the United States, USCIS determines which field office has jurisdiction over the application.^[13] If an applicant resides outside the United States, is no longer serving in the military, and is filing on the basis of military service during hostilities,^[14] the USCIS office with jurisdiction over the naturalization application is determined by the applicant's last residence within the United States or Outlying Possession (OLP).^[15]

An applicant currently serving outside of the United States may complete all aspects of the naturalization process, including biometrics, interviews, and oath ceremonies while residing outside of the United States on official orders.^[16] The applicant may request overseas processing at any time of the naturalization process.

Footnotes

[^ 1] See INA 328 and INA 329.

[^ 2] See INA 328.

[^ 3] See INA 329.

[^ 4] See Part I, Military Members and their Families, Chapter 6, Required Background Checks [12 USCIS-PM I.6].

[^ 5] See *Nio, et al. v. United States Department of Homeland Security, et al.*, Civil Action No. 17-0998 (D.D.C. 2019).

[^ 6] For applicants applying under INA 328, qualifying service in the National Guard is limited to service in the National Guard during such time that the National Guard unit was federally recognized as a reserve component of the U.S. armed forces.

[^ 7] See *Calixto, et al., v. U.S. Dep't of the Army, et al.*, 1:18-cv-01551 (D.D.C. Sep. 22, 2022).

[^ 8] See Chapter 3, Military Service During Hostilities (INA 329), Section G, Department of Defense Military Accessions Vital to National Interest Program [12 USCIS-PM 3.G].

[^ 9] For applicants filing online, annotate "Calixto" only on top of Form N-426. Including this will assist USCIS in identifying class members and allow for more efficient processing.

[^ 10] See Fee Schedule (Form G-1055).

[^ 11] See Fee Schedule (Form G-1055).

[^ 12] See INA 328 and INA 329.

[^ 13] See the Overseas Processing webpage for additional information on where to file.

[^ 14] See INA 329.

[^ 15] For applicants whose last residence was in an OLP, see the USCIS Field Office Locator to determine jurisdiction. For more information, see Chapter 3, Military Service during Hostilities (INA 329), Section H, Veterans Residing Outside of the United States [12 USCIS-PM I.3(H)].

[^ 16] See 8 U.S.C. 1443a.