

Part I - Military Members and their Families

Chapter 1 - Purpose and Background

A. Purpose

Alien military service members and certain veterans who have served honorably^[1] in the U.S. armed forces may qualify for naturalization with some statutory exemptions to the general requirements in recognition of their important sacrifices and commitment to the security of the United States. The requirement for honorable service is what frames the special provisions for military service aside from the general requirements for other naturalization applicants.

The U.S. Department of War (DOW) and Department of Homeland Security (DHS) have continued to strengthen partnerships to provide services and opportunities to service members interacting with the U.S. immigration system. USCIS and DOW collaborate to facilitate military naturalization, with DOW providing certifications^[2] of service and USCIS processing applications. Military naturalization is integral to supporting the readiness of the United States to defend itself.

USCIS' administration of military naturalization law and policy greatly enhances United States national security by ensuring that service members and their family members going through the process are primarily focused on the military readiness of the service member and preparations for family members during times of peace and hostilities.

Congress enacted special provisions of the Immigration and Nationality Act (INA), to include overseas processing,^[3] to facilitate naturalization for members of the U.S. armed forces.^[4]

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

- Honorable service in the U.S. armed forces, and if separated, separation “under honorable conditions;”
- 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.

Certain military family members may be eligible to become citizens of the United States^[5] with special provisions. The INA carves out these special provisions for the treatment and care of spouses and children based on the sacrifices they make as military family members.^[6]

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 alien members of the U.S. armed forces date back at least to the Civil War.^[7] Currently, the special naturalization provisions provide for expedited naturalization through military service during peacetime^[8] or during designated periods of hostilities.^[9] 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 alien service members who died as a direct result of a combat-related injury or disease.^[10] 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 alien 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.^[11]

At the time of the designation, the then-U.S. Department of Defense 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^[12] to:

- Reduce the period of service required for military naturalization based on peacetime service from three years to one year.^[13]
- Add service in the Selected Reserve of the Ready Reserve during periods of hostilities as a basis to qualify for naturalization.^[14]
- 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 alien service members who were granted citizenship posthumously.
- Waive fees for naturalization applications based on military service during peacetime or during periods of hostilities.^[15]
- Permit naturalization processing overseas in U.S. embassies, consulates, and military bases for alien members of the U.S. armed forces.^[16]

Efforts since the 2003 legislation have focused on further streamlining procedures or extending immigration benefits to immediate relatives of alien 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.^[17]

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.^[18]

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.^[19]

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] See INA 328(a) and INA 329(a).

[^ 2] For more information on required forms to confirm honorable service during peacetime or honorable service during a designated period of hostility, see Chapter 5, Application and Filing for Service Members, Section A, Required Forms (INA 328 and 329) [12 USCIS-PM I.5(A)].

[^ 3] See 8 U.S.C. 1443a.

[^ 4] See INA 328 and INA 329. See 8 CFR 328 and 8 CFR 329.

[^ 5] 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).

[^ 6] See INA 316 and INA 319. See 8 CFR 316 and 8 CFR 319. See INA 320 and INA 322.

[^ 7] 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.

[^ 8] See Chapter 2, One Year of Military Service during Peacetime (INA 328) [12 USCIS-PM I.2].

[^ 9] See Chapter 3, Military Service during Hostilities (INA 329) [12 USCIS-PM I.3].

[^ 10] 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.

[^ 11] See Executive Order 13269 signed on July 3, 2002 (67 FR 45287, July 8, 2002) (PDF). See INA 329.

[^ 12] See the National Defense Authorization Act for Fiscal Year 2004, Pub. L. 108-136 (PDF), 117 Stat. 1392.

[^ 13] See INA 328(a).

[^ 14] See INA 329(a).

[^ 15] See INA 328(b) and INA 329(b) (Fee exemptions).

[^ 16] See 8 U.S.C. 1443a (Permitting overseas proceedings).

[^ 17] 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.

[^ 18] 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.

[^ 19] 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. Background

The Nationality Act of 1940 section 324 introduced most of the provisions currently under the Immigration and Nationality Act (INA) section 328 for alien military service members.

B. 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 alien 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 alien must establish that he or she meets all of the following criteria in order to qualify:

- The alien must be 18 years of age or older.
- The alien must have served honorably at any time in the U.S. armed forces for a period or periods totaling at least 1 year.
- The alien must be a lawful permanent resident (LPR) at the time of examination on the naturalization application.
- The alien must meet certain residence and physical presence requirements.
- The alien must demonstrate an ability to understand English including an ability to read, write, and speak English.
- The alien must demonstrate knowledge of U.S. history and government.
- The alien must demonstrate good moral character for at least five years prior to filing the application until the time of his or her naturalization.
- The alien 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.

C. Honorable Service

The specific provisions under INA 328 for alien military service members are only provided for those aliens who “served honorably at any time in the armed forces” and if the alien “was never separated except under honorable conditions.”

1. Qualifying Military 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]

Current Military Service

An alien military service member who applies for naturalization and who is serving in the U.S. armed forces at the time he or she files the naturalization application must have his or her service certified as honorable by his or her military branch. The alien military service member is responsible for submitting to USCIS a complete and certified Request for Certification of Military or Naval Service (Form N-426).^[5]

Past Military Service

An alien military service member who is separated from the U.S. armed forces at the time he or she files the naturalization application must submit a copy of his or her official discharge documentation. The U.S. armed forces generally issues a “Certificate of Release or Discharge from Active Duty” (DD Form 214) or National Guard Report of Separation and Record of Service (NGB Form 22) upon the alien military service member’s release from active duty service.

Military discharge characterizations indicate the nature of an alien military service member’s separation and can impact eligibility for naturalization. INA 328 requires both honorable service and, if separated, that the alien has never been separated except under honorable conditions.^[6] If the alien

has multiple separations from service, each separation must be under honorable conditions, including discharges from periods of service not relied upon for naturalization purposes.^[7]

As illustrated in the table below, the U.S. Department of War (DOW) authorizes six characterizations of service for military service members to receive on discharge.^[8]

Characterizations of Military Discharges or Separations by Type and Whether Discharge or Separation Qualifies as “Under Honorable Conditions” for Naturalization Purposes

Service Characterization or Separation Description^[9]	Description of Discharge or Separation Type	Qualifies as “Under Honorable Conditions” for Naturalization Purposes?
Honorable	The service member generally has met the standards of acceptable conduct and performance of duty for service members or is otherwise so meritorious that any other characterization would be inappropriate. ^[10]	Yes
General (Under Honorable Conditions)	The service member has served honestly and faithfully. The positive aspects of the enlisted service member’s conduct or performance of duty outweigh the negative aspects of the enlisted service member’s conduct or performance of duty as documented in their service record. ^[11]	Yes
Uncharacterized	When a characterization of service or other description of separation is not authorized or warranted, administrative separations of service members may be uncharacterized. The service member may receive an uncharacterized discharge under the following circumstances: • Entry-level separations; • Void enlistment or induction; or • Dropping from the rolls.^[12]	No, if discharge was after August 1, 2024
Other than Honorable Conditions	The service member may be issued this characterization when: • The reason for separation is based on a pattern of behavior that constitutes a significant departure from the conduct expected of enlisted service members; or • The reason for separation is based on one or more acts or omissions that constitute a significant departure from	No

Service Characterization or Separation Description^[9]	Description of Discharge or Separation Type	Qualifies as “Under Honorable Conditions” for Naturalization Purposes?
	the conduct expected of enlisted service members.^[13] Examples of factors that may be considered include but are not limited to, the use of force or violence to produce serious bodily injury or death, acts or omissions that endanger U.S. security, or deliberate acts or omissions that seriously endanger the health and safety of others.	
Bad Conduct	This is not issued administratively and is considered a punitive separation and can only occur after a court-martial proceeding.	No
Dishonorable	This is not issued administratively and is considered a punitive separation and can only occur after a court-martial proceeding.	No

As noted in the table, only “Honorable” and “General (Under Honorable Conditions)” discharges meet the statutory provisions requiring that an alien have been separated “under honorable conditions,” because these are the only discharges that indicate honorable service.^[14] Other discharge types, such as “Uncharacterized,”^[15] “Other Than Honorable,” “Bad Conduct,” and “Dishonorable,” do not qualify as a separation under honorable conditions.

Both “Honorable” and “General (Under Honorable Conditions)” are defined as types of “Characterized” service, and therefore “Uncharacterized”^[16] discharges do not meet the “under honorable conditions” requirement. Notwithstanding, uncharacterized discharges issued before August 1, 2024, meet the “under honorable conditions” requirement, because the Department of Defense Instructions (DODI) had treated an uncharacterized discharge as “the required characterization” for “administrative matters” before August 1, 2024.^[17]

The then-U.S. Department of Defense (DOD) updated the DODI on August 1, 2024,^[18] and removed the language regarding an uncharacterized discharge being treated as “the required characterization” for administrative matters and addressed entry-level separations as a distinct and separate category of discharges apart from honorable and general (under honorable conditions) discharges. Therefore, only uncharacterized discharges issued on or before July 31, 2024, qualify as “under honorable conditions” for naturalization purposes. This is consistent with the updated DODI.

Discharges Based on Refusal to Comply with COVID-19 Vaccination Mandates

On August 24, 2021, and November 30, 2021, the then-Secretary of Defense mandated that members of the U.S. armed forces be vaccinated against the coronavirus disease (COVID-19). Consequently, military service members who refused to comply with the mandates were discharged from active duty. The then-Secretary of Defense later rescinded the mandates on January 10, 2023, and rendered all DOD component policies, directives, and guidance implementing those vaccination mandates as no longer in effect.^[19] Under DOD policy announced on January 10, 2023, DOD permits individuals who

separated or were discharged from the military to request a change in the "characterization of their discharge" in their personnel records.^[20]

For the purposes of meeting eligibility for naturalization under INA 328, USCIS reviews the 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 to determine if the qualifying military service was both honorable service and that the alien has been separated under honorable conditions.^[21] An alien who believes his or her discharge was incorrectly characterized due to refusal to comply with the COVID-19 vaccination requirements may seek an upgrade to his or her discharge characterization through their respective military departments before applying for naturalization.^[22]

2. Multiple Periods of Service

Aliens who have multiple periods of service must demonstrate that all discharges from military service were under honorable conditions. Therefore, an alien who was separated under a different type of discharge from any other period of service that is not under honorable conditions is not eligible for naturalization under INA 328.

For example, an alien may have enlisted in October 1980 and served honorably on active duty for one entire period of service until 1984. The alien is honorably discharged and then reenlists for a second period of service starting in 1986 and ending in 1987. During the second period of service (1986-1987), the alien is discharged under "other than honorable conditions." This alien is not eligible to naturalize under INA 328.

D. 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 aliens applying for naturalization on the basis of one year of military service.^[23] The alien military service member is responsible for submitting to USCIS a complete and certified Request for Certification of Military or Naval Service (Form N-426) (if currently serving), or if not currently serving, National Guard Report of Separation and Record of Service (NGB Form 22) or other official discharge document for all periods of service.

E. Continuous Residence and Physical Presence Requirements

An alien 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.^[24]

An alien 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 alien 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.^[25] 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.^[26]

An alien with military service who does not qualify on the basis of one year of military service^[27] may be eligible under another non-military naturalization provision. The period that the alien 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.^[28]

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 D, National Guard Service [12 USCIS-PM I.2(D)].

[^ 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 Chapter 5, Application and Filing for Service Members (INA 328 and 329) [12 USCIS-PM I.5] for additional information about Form N-426.

[^ 6] See INA 328(a).

[^ 7] See INA 328(a) and INA 328(b)(3).

[^ 8] See Certificate of Uniformed Service (DD Form 214/5 Series) (PDF), U.S. Department of Defense Instruction No. 1336.01, Section 3, effective February 17, 2022.

[^ 9] Also known as “discharge.” See 32 CFR 73.2 (The characterization of a discharge or dismissal is a determination reflecting a Service member's conduct and performance of duty while in military service during a specific period of military service. Administrative discharges can be characterized as honorable, general (under honorable conditions), other than honorable conditions, or can be described as uncharacterized (as in an entry-level separation). If a discharge is adjudged at a court-martial, the assigned characterization may be a bad-conduct discharge, or dishonorable discharge, or a dismissal. The term characterization of a discharge or dismissal is also referred to as a “character of discharge” or “character of service.”).

[^ 10] See Enlisted Administrative Separations (PDF), U.S. Department of Defense Instruction No. 1332.14, Section 4.3, effective August 1, 2024.

[^ 11] See Enlisted Administrative Separations (PDF), U.S. Department of Defense Instruction No. 1332.14, Section 4.3, effective August 1, 2024.

[^ 12] See Enlisted Administrative Separations (PDF), U.S. Department of Defense Instruction No. 1332.14, Section 4.3, effective August 1, 2024.

[^ 13] See Enlisted Administrative Separations (PDF), U.S. Department of Defense Instruction No. 1332.14, Section 4.3, effective August 1, 2024.

[^ 14] See Enlisted Administrative Separations (PDF), U.S. Department of Defense Instruction No. 1332.14, Section 3, effective August 1, 2024.

[^ 15] See Enlisted Administration Separations, (PDF) U.S. Department of Defense Instruction No. 1332.14, Section 3, effective August 1, 2024.

[^ 16] See Enlisted Administration Separations, (PDF) U.S. Department of Defense Instruction No. 1332.14, Section 3, effective August 1, 2024.

[^ 17] See *Alam v. USCIS, et al.*, 592 F.Supp.3d 810 (D. Minn. March 21, 2022) (indicating that the DODI indicated that the uncharacterized discharged is “treated as the required characterization”).

[^ 18] See Enlisted Administration Separations, (PDF) U.S. Department of Defense Instruction No. 1332.14, Section 3, effective August 1, 2024.

[^ 19] See Department of Defense memorandum, Recission of August 24, 2021 and November 30, 2021 Coronavirus Disease 2019 Vaccination Requirements for Members of Armed Forces (PDF), issued January 10, 2023.

[^ 20] See Department of Defense News Release, Veterans Have Options to Upgrade Discharge Characterization, issued June 4, 2024.

[^ 21] See INA 328(a).

[^ 22] See Department of Defense News Release, Veterans Have Options to Upgrade Discharge Characterization, issued June 4, 2024.

[^ 23] 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 D, National Guard Service [12 USCIS-PM I.3(D)].

[^ 24] See INA 328. See 8 CFR 328.2.

[^ 25] See INA 316(a) and INA 328(d). See Part D, General Naturalization Requirements [12 USCIS-PM D].

[^ 26] See INA 328(d).

[^ 27] See INA 328.

[^ 28] Special provisions also exist regarding the “place of residence” for aliens 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. Background

In addition to the general provisions for naturalization, including the provision for alien military service members under Immigration and Nationality Act (INA) section 328, Congress also provided a special provision for service during specific hostilities.^[1] This provision has its origins in similar provisions that were enacted starting after World War I in recognition of the honorable service and sacrifice of aliens during times of war.

B. 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.^[2]

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

- The alien may be of any age.
- The alien must have served honorably in the U.S. armed forces during a designated period of hostility.

- The alien 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,^[3] 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 alien must be able to read, write, and speak basic English.
- The alien must demonstrate knowledge of U.S. history and government.
- The alien must demonstrate good moral character for at least 1 year prior to filing the application until the time of his or her naturalization.
- The alien 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 alien who files on the basis of military service during hostilities is exempt from the general naturalization requirements of continuous residence and physical presence.^[4]

As with all cases, all pertinent background checks, including applicable U.S. Department of War (DOW) checks (if required)^[5] must be completed before USCIS may interview the alien applying for naturalization.

C. 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.^[6] In general, international cadets attending U.S. military academies are not considered to have served in the U.S. armed forces.^[7]

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

Current Military Service

An alien military service member who applies for naturalization based on his or her service during specific hostilities^[8] and who is serving in the U.S. armed forces at the time he or she files the naturalization application must have his or her service certified as honorable by his or her military branch. The alien military service member is responsible for submitting to USCIS a complete and certified Request for Certification of Military or Naval Service (Form N-426).^[9]

Past Military Service

An alien service member who applies for naturalization based on his or her service during specific hostilities^[10] and who is separated from the U.S. armed forces at the time he or she files the naturalization application must submit a copy of his or her official discharge documentation. The U.S. armed forces generally issue a "Certificate of Release or Discharge from Active Duty" (DD Form 214) or National Guard Report of Separation and Record of Service (NGB Form 22) upon the alien military service member's release from active duty service.

Military discharge characterizations indicate the nature of a military service member's separation and can impact eligibility for naturalization. INA 329 requires honorable service and, if the alien has separated from service, a separation under honorable conditions.^[11]

As illustrated in the table below, the U.S. Department of War (DOW) authorizes six characterizations of service for military service members to receive on discharge.^[12]

Characterizations of Military Discharges or Separations by Type and Whether Discharge or Separation Qualifies as “Under Honorable Conditions” for Naturalization Purposes

Service Characterization or Separation Description^[13]	Description of Discharge or Separation Type	Qualifies as “Under Honorable Conditions” for Naturalization Purposes?
Honorable	The service member generally has met the standards of acceptable conduct and performance of duty for service members or is otherwise so meritorious that any other characterization would be inappropriate. ^[14]	Yes
General (Under Honorable Conditions)	The service member has served honestly and faithfully. The positive aspects of the enlisted service member’s conduct or performance of duty outweigh the negative aspects of the enlisted service member’s conduct or performance of duty as documented in their service record. ^[15]	Yes
Uncharacterized	When a characterization of service or other description of separation is not authorized or warranted, administrative separations of service members may be uncharacterized. The service member may receive an uncharacterized discharge under the following circumstances: • Entry-level separations; • Void enlistment or induction; or • Dropping from the rolls.^[16]	No, if discharge was after August 1, 2024
Other than Honorable Conditions	The service member may be issued this characterization when: • The reason for separation is based on a pattern of behavior that constitutes a significant departure from the conduct expected of enlisted service members; or • The reason for separation is based on one or more acts or omissions that constitute a significant departure from the conduct expected of enlisted service members.^[17]	No

Service Characterization or Separation Description^[13]	Description of Discharge or Separation Type	Qualifies as “Under Honorable Conditions” for Naturalization Purposes?
	Examples of factors that may be considered include but are not limited to, the use of force or violence to produce serious bodily injury or death, acts or omissions that endanger U.S. security, or deliberate acts or omissions that seriously endanger the health and safety of others.	
Bad Conduct	This is not issued administratively and is considered a punitive separation and can only occur after a court-martial proceeding.	No
Dishonorable	This is not issued administratively and is considered a punitive separation and can only occur after a court-martial proceeding.	No

As noted in the table, only “Honorable” and “General (Under Honorable Conditions)” discharges meet the statutory provisions requiring that an alien was separated “under honorable conditions,” because these are the only discharges that indicate honorable service.”^[18] Other discharge types, such as “Uncharacterized,”^[19] “Other Than Honorable,” “Bad Conduct,” and “Dishonorable,” do not qualify as a separation under honorable conditions.

Both “Honorable” and “General (Under Honorable Conditions)” are defined as types of “Characterized” service, and therefore “Uncharacterized”^[20] discharges do not meet the “under honorable conditions” requirement. Notwithstanding, uncharacterized discharges issued before August 1, 2024, meet the “under honorable conditions” requirement, because the Department of Defense Instructions (DODI) had treated an uncharacterized discharge as “the required characterization” for “administrative matters” before August 1, 2024.^[21]

The then-U.S. Department of Defense (DOD) updated the DODI on August 1, 2024,^[22] which removed the language regarding an uncharacterized discharge being treated as “the required characterization” for administrative matters and addressed entry-level separations as a distinct and separate category of discharges apart from honorable and general (under honorable conditions) discharges. Therefore, only uncharacterized discharges issued on or before July 31, 2024, qualify as “under honorable conditions” for naturalization purposes.

Discharges Based on Refusal to Comply with COVID-19 Vaccination Mandates

On August 24, 2021, and November 30, 2021, the then-Secretary of Defense mandated that members of the U.S. armed forces be vaccinated against the coronavirus disease (COVID-19). Consequently, service members who refused to comply with the mandates were discharged from active duty. The then-Secretary of Defense later rescinded the mandates on January 10, 2023, and rendered all then-DOD component policies, directives, and guidance implementing those vaccination mandates as no longer in effect.^[23] Under the then-DOD policy announced on January 10, 2023, DOW permits individuals who separated or were discharged from the military to request a change in the “characterization of their discharge” in their personnel records.^[24]

For the purposes of meeting eligibility for naturalization under INA 329, USCIS reviews the 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 to determine if the qualifying military service was both honorable service and that the alien has been separated under honorable conditions.^[25] An alien who believes his or her discharge was incorrectly characterized due to refusal to comply to COVID-19 vaccination requirements may seek an upgrade to their discharge characterization through their respective military departments before applying for naturalization.^[26]

2. Multiple Periods of Service

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

For example, an alien may have enlisted in October 1975, and served honorably on active duty for one entire period of service until 1978. The alien 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 alien is discharged under “other than honorable conditions.” This alien, 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 alien 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 alien performed the subsequent period of service certifies that the alien served honorably and, if separated, was separated under honorable conditions.

D. National Guard Service

An alien filing on the basis of military service during hostilities^[27] who has National Guard service may qualify if the alien has honorable service in either the U.S. armed forces or in the Selected Reserve of the Ready Reserve.^[28] USCIS does not require proof of federal activation for a National Guard applicant if the alien served in the Selected Reserve of the Ready Reserve during a designated period of hostility.^[29] The alien service member is responsible for submitting to USCIS a complete and certified Request for Certification of Military or Naval Service (Form N-426) (if currently serving), or if not currently serving, a National Guard Report of Separation and Record of Service (NGB Form 22) or other official discharge document for all periods of service.^[30]

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.

E. Designated Periods of Hostilities

The INA and Presidential Executive Orders have designated the following military engagements and ranges of dates as periods of hostilities.^[31]

Designated Periods of Hostilities			
World War I ^[32]	April 6, 1917	→	November 11, 1918
World War II ^[33]	September 1, 1939	→	December 31, 1946
Korean Conflict ^[34]	June 25, 1950	→	July 1, 1955
Vietnam Hostilities ^[35]	February 28, 1961	→	October 15, 1978
Persian Gulf Conflict ^[36]	August 2, 1990	→	April 11, 1991
War on Terrorism ^[37]	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.^[38]

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

In general, an alien who files on the basis of military service during hostilities^[39] 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 alien 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.

G. Conditional Permanent Residence and Naturalization during Hostilities

If the alien is a conditional permanent resident and is eligible to naturalize on the basis of military service during hostilities^[40] without being an LPR based on being in the United States during enlistment or induction, the alien 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.

H. Military Accessions Vital to National Interest Program

The general guidance in this section is from information provided by the DOW 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.

1. Background

In 2009, the then-U.S. Department of Defense (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. The program applied to certain health care professionals and aliens who were fluent in certain foreign languages.

Then-DOD allowed authorization for the MAVNI program to expire on September 30, 2017, and has not renewed the program since that time. As a result, all individuals enlisting in the military are currently required to be U.S. citizens or nationals, lawful permanent residents of the United States, or citizens of the Federated States of Micronesia, the Republic of the Marshall Islands, or Palau (countries with which the United States has Compacts of Free Association allowing their citizens to enlist in the U.S. armed forces).^[41]

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 DOW.^[42] 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).^[43] 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,^[44] if the applicant was not discharged as of September 22, 2022 or had received an uncharacterized discharge^[45] 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.^[46] 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.^[47]

2. General Eligibility Requirements

Eligible Candidates

To be eligible for the MAVNI program, then-DOD required aliens 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

Then-DOD required most aliens 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 alien was not required to be in the same qualifying category or authorized stay listed above for those 2 years on the date of enlistment.

Then-DOD exempted or waived the 2-year requirement for certain aliens. Specifically, then-DOD did not require DACA recipients to meet the 2-year requirement. In addition, then-DOD considered waiving the requirement that an alien applying 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.

3. Other Factors to Consider

Nonimmigrants and Absences from United States

Under then-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. Then-DOD did 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 have been eligible to apply for the MAVNI program with then-DOD. Certain nonimmigrant exchange visitors were subject to a statutory foreign residence requirement.^[48] J exchange visitors who enlisted in the military through the MAVNI program were not required to comply with the foreign residence requirement in order to naturalize.^[49] In addition, the dependent spouse or child of the exchange visitor was not required to comply with the foreign residence requirement.^[50]

Adjustment of Status Applicants

Then-DOD did not disqualify otherwise eligible applicants to the MAVNI program by virtue of having a pending adjustment of status application with USCIS.^[51]

I. Veterans Residing Outside the United States

Admission or Parole into United States for Naturalization Interview

Aliens who reside outside the United States and have separated from the military are required to appear for an interview in the United States.^[52] All aliens must be inspected and admitted or paroled in order to enter the United States.^[53]

If seeking parole into the United States, the alien 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.^[54] USCIS coordinates with the alien to schedule an interview date and location.

Documentation

An alien 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),^[55] including a police clearance from every place of residence outside the United States within 1 year of filing the naturalization application. In addition, the alien 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).^[56]

USCIS will inform the alien 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 alien submitting Form I-131^[57] is required to provide documentation to establish eligibility for an advance parole document.

Failure to Appear at Interview

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

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

USCIS considers subsequent correspondence from an alien within 1 year of the administrative closure a request to reopen the application.^[58]

Jurisdiction

The USCIS office having jurisdiction over the alien's last residence within the United States or Outlying Possession (OLP) maintains jurisdiction over the naturalization application.^[59] If there is no evidence in the application to establish the alien'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 alien requests to have the naturalization interview conducted at a USCIS office other than the office having jurisdiction based on the applicant's last residence, 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.

Footnotes

[^ 1] See INA 329.

[^ 2] See INA 329.

[^ 3] 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).

[^ 4] See INA 329(b). See 8 CFR 329.2(e).

[^ 5] 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 aliens applying for naturalization based on military service. Additionally, in certain cases that involved aliens recruited through the Military Accessions Vital to the National Interest (MAVNI) program, USCIS required then-DOD background and security checks to be completed and a review of any derogatory information then-DOD obtained regarding an alien applying for naturalization. USCIS does not require any DOW adjudication of the alien'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 DOW adjudication does not determine the outcome of the naturalization adjudication.

[^ 6] See Section D, National Guard Service [12 USCIS-PM I.3(D)].

[^ 7] 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.

[^ 8] See INA 329.

[^ 9] See Chapter 5, Application and Filing for Service Members (INA 328 and 329) [12 USCIS-PM I.5] for additional information about Form N-426.

[^ 10] See INA 329.

[^ 11] See INA 329(a). See 8 CFR 329.2(a) and 8 CFR 329.2(b).

[^ 12] See Certificate of Uniformed Service (DD Form 214/5 Series) (PDF), U.S. Department of Defense Instruction No. 1336.01, Section 3, effective February 17, 2022.

[^ 13] Also known as "discharge." See 32 CFR 73.2 (The characterization of a discharge or dismissal is a determination reflecting a Service member's conduct and performance of duty while in military service during a specific period of military service. Administrative discharges can be characterized as honorable, general (under honorable conditions), other than honorable conditions, or can be described as uncharacterized (as in an entry-level separation). If a discharge is adjudged at a court-martial, the assigned characterization may be a bad-conduct discharge, or dishonorable discharge, or a dismissal. The term characterization of a discharge or dismissal is also referred to as a "character of discharge" or "character of service.").

[^ 14] See Enlisted Administrative Separations (PDF), U.S. Department of Defense Instruction No. 1332.14, Section 4.3, effective August 1, 2024.

[^ 15] See Enlisted Administrative Separations (PDF), U.S. Department of Defense Instruction No. 1332.14, Section 4.3, effective August 1, 2024.

[^ 16] See Enlisted Administrative Separations (PDF), U.S. Department of Defense Instruction No. 1332.14, Section 4.3, effective August 1, 2024.

[^ 17] See Enlisted Administrative Separations (PDF), U.S. Department of Defense Instruction No. 1332.14, Section 4.3, effective August 1, 2024.

[^ 18] See Enlisted Administrative Separations (PDF), U.S. Department of Defense Instruction No. 1332.14, Section 3, effective August 1, 2024.

[^ 19] See Enlisted Administration Separations, (PDF) U.S. Department of Defense Instruction No. 1332.14, Section 3, effective August 1, 2024.

[^ 20] See Enlisted Administration Separations, (PDF) U.S. Department of Defense Instruction No. 1332.14, Section 3, effective August 1, 2024.

[^ 21] See *Alam v. USCIS, et al.*, 592 F. Supp. 3d 810 (D. Minn. March 21, 2022) (indicating that the DODI indicated that the uncharacterized discharged is “treated as the required characterization”).

[^ 22] See Enlisted Administration Separations, (PDF) U.S. Department of Defense Instruction No. 1332.14, Section 3, effective August 1, 2024.

[^ 23] See Department of Defense Memorandum Recission of August 24, 2021 and November 30, 2021 Coronavirus Disease 2019 Vaccination Requirements for Members of Armed Forces (PDF), issued January 10, 2023.

[^ 24] See Department of Defense News Release, Veterans Have Options to Upgrade Discharge Characterization, issued June 4, 2024.

[^ 25] See INA 329(a).

[^ 26] See Department of Defense News Release, Veterans Have Options to Upgrade Discharge Characterization, issued June 4, 2024.

[^ 27] See INA 329.

[^ 28] See 8 CFR 329.1. See 10 U.S.C. 10143 for more information on the Selected Reserve of the Ready Reserve.

[^ 29] 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 D, National Guard Service [12 USCIS-PM I.2(D)].

[^ 30] See Chapter 5, Application and Filing for Service Members (INA 328 and 329) [12 USCIS-PM I.5] for additional information about Form N-426.

[^ 31] See 8 CFR 329.1 and 8 CFR 329.2.

[^ 32] 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.

[^ 33] See 8 CFR 329.2. See Proclamation No. 2714, Cessation of Hostilities of World War II, 61 Stat. 1048 (December 31, 1946).

[^ 34] See 8 CFR 329.2.

[^ 35] See 8 CFR 329.2. See Exec. Order No. 12081, Termination of Expeditious Naturalization Based on Military Service, 43 FR 42237 (September 18, 1978).

[^ 36] 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).

[^ 37] 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).

[^ 38] 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).

[^ 39] See INA 329.

[^ 40] See INA 329.

[^ 41] See 10 U.S.C. 504(b).

[^ 42] 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.

[^ 43] 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).

[^ 44] See *Calixto, et al., v. U.S. Dep't of the Army, et al.*, 1:18-cv-01551 (D.D.C. Sept. 22, 2022).

[^ 45] The August 1, 2024, changes to the Department of Defense Instruction (DODI) struck prior language that an entry-level separation of a service member will be treated as “the required characterization” for “administrative matters.” This change prompted a change in USCIS policy, only allowing for a separation discharge of “honorable” or “General-Under Honorable Conditions,” to meet the threshold for “under honorable conditions.” These changes do not affect Calixto class members who receive an uncharacterized discharge and meet all other requirements.

[^ 46] The settlement agreement may be used as a substitute for identifying the applicant’s type of service and periods of service.

[^ 47] For applicants filing online, annotate “Calixto” only on top of Form N-426.

[^ 48] See INA 212(e).

[^ 49] The J exchange visitor is not required to obtain a waiver of the INA 212(e) foreign residence requirement. See INA 329.

[^ 50] A J-1 exchange visitor’s dependent spouse or child is issued a J-2 nonimmigrant visa.

[^ 51] See Application to Register Permanent Residence or Adjust Status (Form I-485).

[^ 52] USCIS does not have statutory authority to conduct naturalization interviews and oath ceremonies overseas for those former alien service members 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 former alien service members.

[^ 53] See INA 235(a)(3). An alien may qualify for parole under INA 212(d)(5).

[^ 54] 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 alien 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.

[^ 55] See Chapter 5, Application and Filing for Service Members (INA 328 and 329), Section A, Required Forms [12 USCIS-PM 5.A].

[^ 56] 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.

[^ 57] 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.

[^ 58] See 8 CFR 335.6.

[^ 59] See INA 329. USCIS should not apply the 3- or 5-year residency requirement if the alien 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).
[1]

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
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 alien 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 alien 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 *Sakarapane 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 L, 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 alien service member 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:

1. Application for Naturalization (Form N-400)

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

An alien who is serving or who has previously served, must have his or her service certified as honorable by his or her military branch. The alien service member is responsible for submitting to USCIS a complete and certified Request for Certification of Military or Naval Service (Form N-426) (if currently serving), or if not currently serving, a Certificate of Release or Discharge from Active Duty (DD Form 214), National Guard Report of Separation and Record of Service (NGB Form 22), or another official discharge document for all periods of service.^[4]

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If an alien filing under a different eligibility provision for naturalization has served in the military, the officer should determine if the alien may be eligible under a qualifying military basis. If the alien 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 alien 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 alien'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 aliens applying for naturalization, who currently serve or have served in the U.S. military.^[5]

2. Documentation as a Current or Former Service Member of the U.S. Armed Forces

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

Form N-426 confirms whether the alien is serving honorably in an active duty status or in the Selected Reserve of the Ready Reserve. The form may also record whether the alien 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 aliens who are currently serving and who are applying under INA 328 or INA 329 are required to submit the form. An alien applying under a different naturalization provision is not required to submit the form, even if the alien has prior military service.

The military must complete and certify (sign) the Form N-426 before it is submitted to USCIS. A military official who is authorized under U.S. Department of War (DOW) policy to certify the Form N-426 must certify that the service member is currently serving honorably. Recruiters cannot certify Form N-426. A certifying official must complete and sign the Form N-426 no more than 6 months before the applicant submits 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.^[6]

An alien 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

Aliens 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.

^[7] 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.

Aliens who are class members of *Calixto, et al., v. U.S. Dep't of the Army, et al.*^[8] and are applying for military naturalization with a certified Form N-426 they obtained through the settlement agreement^[9] 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.^[10]

Most military installations have a designated military point-of-contact to assist service members with their naturalization application packets. Alien 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 aliens whose naturalization application filed under INA 328 or INA 329 has been denied.^[11]
- There is no filing fee for current and former alien service members for an Application for Certificate of Citizenship (Form N-600).^[12]

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.^[13] 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.^[14]

If an alien resides outside the United States, is no longer serving in the military, and is filing on the basis of military service during hostilities,^[15] the USCIS office with jurisdiction over the naturalization application is determined by the alien's last residence within the United States or Outlying Possession (OLP).^[16]

An alien service member 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.^[17] The alien service member 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] For aliens 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.

[^ 5] See Part I, Military Members and their Families, Chapter 6, Required Background Checks [12 USCIS-PM I.6].

[^ 6] See *Nio, et al. v. United States Department of Homeland Security, et al.*, Civil Action No. 17-0998 (D.D.C. 2019).

[^ 7] For aliens 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.

[^ 8] See *Calixto, et al., v. U.S. Dep't of the Army, et al.*, 1:18-cv-01551 (D.D.C. Sep. 22, 2022).

[^ 9] See Chapter 3, Military Service During Hostilities (INA 329), Section H, Military Accessions Vital to National Interest Program [12 USCIS-PM 3.H].

[^ 10] For aliens 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.

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

[^ 12] See Fee Schedule (Form G-1055).

[^ 13] See INA 328 and INA 329.

[^ 14] See the Overseas Processing webpage for additional information on where to file.

[^ 15] See INA 329.

[^ 16] For aliens 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 I, Veterans Residing Outside of the United States [12 USCIS-PM I.3(I)]. See 8 U.S.C. 1443a.

[^ 17] See 8 U.S.C. 1443a.