



USCIS Policy Manual

Current as of November 21, 2019

Volume 8 - Admissibility

Part K - False Claim to U.S. Citizenship

Chapter 2 - Determining False Claim to U.S. Citizenship

For an alien to be inadmissible based on false claim to U.S. citizenship, an officer must find all of the following elements:

- The alien made a representation of U.S. citizenship;
- The representation was false;
- The alien made the false representation knowingly; and
- The alien made the false representation for any purpose or benefit under the Immigration and Nationality Act (INA) or any other federal or state law.

A. Overview of Admissibility Determination

The officer should examine all facts and circumstances when evaluating inadmissibility for falsely claiming U.S. citizenship. The officer should follow the steps in the table below to determine inadmissibility.

Overview of Admissibility Determination

Step		For More Information
Step 1	Determine whether alien claimed to be a U.S. citizen.	Section B, Claim to U.S. Citizenship [8 USCIS-PM K.2(B)]
Step 2	Determine whether alien made the representation on or after September 30, 1996.	Section C, Claim Made On or After September 30, 1996 [8 USCIS-PM K.2(C)]
Step 3	Determine whether the representation was false.	Section D, Knowledge that Claim Was False [8 USCIS-PM K.2(D)]
Step 4	Determine whether alien knew the claim to U.S. citizenship was false. ^[1]	Section D, Knowledge that Claim Was False [8 USCIS-PM K.2(D)]

<https://www.uscis.gov/policy-manual/volume-8-part-k-chapter-2>

Go

OCT NOV DEC

30

2018 2019 2020


[5 captures](#)

23 Aug 2019 – 30 Nov 2019

About this capture

Step 5	Determine whether alien's false claim to U.S. citizenship was for the purpose of obtaining a benefit under the INA or under any other federal or state law.	Section E, Purpose or Benefit under INA or Any State or Federal Law [8 USCIS-PM K.2(E)]
Step 6	Determine whether alien timely retracted the false claim to U.S. citizenship.	Section F, Timely Retraction [8 USCIS-PM K.2(E)]
Step 7	Determine whether alien is exempt from inadmissibility because a statutory exception applies. ^[2]	Chapter 4, Exceptions and Waivers, Section A, Applicability [8 USCIS-PM K.4(A)] and Section B, Exception [8 USCIS-PM K.4(B)]
Step 8	Determine whether a waiver of inadmissibility is available.	Chapter 4, Exceptions and Waivers, Section C, Waiver [8 USCIS-PM K.4(C)]

B. Claim to U.S. Citizenship

An officer should first determine whether an alien claimed to be a U.S. citizen.

1. Form of Claim

An alien may claim to be a U.S. citizen in oral interviews, written applications, or by submitting evidence. It is irrelevant whether or not the alien made the claim under oath.

2. Representation Before Government Official Not Necessary

Unlike inadmissibility for fraud and misrepresentation,^[3] an alien does not have to make the claim of U.S. citizenship to a U.S. government official exercising authority under the immigration and nationality laws. The alien can make the claim to any other federal, state, or local official, or even to a private person, such as an employer.^[4]

3. Distinction between a U.S. Citizen and a U.S. National

U.S. citizen status is related to, but is not the same as, U.S. national status. A U.S. national is any person owing permanent allegiance to the United States and may include a U.S. citizen or a non-citizen U.S. national.^[5] A non-citizen U.S. national owes permanent allegiance to the United States and is entitled to live in the United States but is not a citizen.^[6] A U.S. citizen is any person born in the United States or who otherwise acquires U.S. citizenship at or after birth.^[7]

4. Claiming to be a U.S. National

An alien who falsely claims to be a U.S. national but not a U.S. citizen is not inadmissible for false claim to U.S. citizenship.^[8] The alien, however, may be inadmissible for fraud or willful misrepresentation if all other elements for that ground are met.^[9]

The Employment Eligibility Verification form ([Form I-9](#)) used prior to April 3, 2009, asked the person completing it whether the person is a "citizen or national" of the United States and required checking a box corresponding to the answer. The fact that an alien marked "Yes" on an earlier edition of the Employment Eligibility Verification does not necessarily subject the alien to inadmissibility for falsely claiming U.S. citizenship, because the earlier edition of the form did not distinguish a claim of "nationality" from a claim of "citizenship."^[10]

An affirmative answer to this question does not, by itself, provide sufficient evidence that would permit a reasonable person to find the alien falsely represented U.S. citizenship because of the question's ambiguity.^[11]

<https://www.uscis.gov/policy-manual/volume-8-part-k-chapter-2>

Go

OCT NOV DEC

30

2018 2019 2020

[5 captures](#)

23 Aug 2019 – 30 Nov 2019

About this capture

a U.S. national when completing the [Form I-9](#).

This inquiry is not necessary if the applicant used the April 3, 2009, edition or any later edition of the [Form I-9](#), because these editions clearly differentiate between “Citizen of the United States” and “Non-citizen National of the United States.”

C. Claim Made On or After September 30, 1996^[13]

An officer should determine whether the claim to U.S. citizenship occurred on or after September 30, 1996.^[14] If an applicant claimed U.S. citizenship before September 30, 1996, the applicant may be inadmissible for fraud or willful misrepresentation^[15] but not for falsely claiming U.S. citizenship.^[16]

D. Knowledge that Claim Was False

If an applicant claimed to be a U.S. citizen on or after September 30, 1996, then an officer should determine whether the claim was false and whether the applicant knew the claim was false.

1. False Representation

A false representation or misrepresentation is an assertion or manifestation that is not in accordance with the true facts.

2. Knowledge of False Claim

For USCIS to consider the claim to U.S. citizenship to be false, the applicant must knowingly misrepresent the fact that the applicant is a citizen of the United States. The applicant must have known that he or she was not a U.S. citizen at the time he or she made the claim.^[17]

Knowledge that the claim was false, however, is not an element that the government must prove. As long as there is some evidence in the record that reasonably calls the alien’s admissibility into question, the alien has the burden to prove the alien is not inadmissible.

The alien’s assertion that he or she did not know the claim to citizenship was false is therefore a defense. The alien must establish clearly and beyond a doubt that he or she did not know the claim was false. The alien’s lack of knowledge about the claim being false is an individualized inquiry and depends on the unique circumstances of each particular case.

3. Refusal to Respond to Questions^[18]

An alien’s refusal to answer a question does not necessarily mean that he or she knowingly made a false representation. An alien’s refusal to answer an officer’s question during an admissibility determination, however, could result in the officer finding that the applicant failed to establish admissibility.^[19]

4. Lack of Capacity

Factors to Consider

Inherent in the knowledge requirement is that the alien has the capacity for such knowledge. An officer cannot make a finding of inadmissibility for false claim to U.S. citizenship if the alien lacks the capacity to knowingly make a false claim to U.S. citizenship.

An officer should not find that an alien lacks capacity simply because he or she does not know that a false claim to U.S. citizenship makes the alien inadmissible. An officer should find a lack of capacity only if the evidence shows that the alien was incapable of understanding the nature and consequences of the false claim at the time of the alleged false claim.

The officer should consider all relevant factors when evaluating whether the alien has the capacity to make a knowingly false claim to U.S. citizenship, including the alien’s:

<https://www.uscis.gov/policy-manual/volume-8-part-k-chapter-2>

Go

OCT NOV DEC

◀ 30 ▶

2018 2019 2020


[5 captures](#)

23 Aug 2019 – 30 Nov 2019

▼ About this capture

- Background;
- Mental capacity;
- Level of understanding;
- Ability to appreciate the difference between true and false; and
- Other relevant circumstances.

False Claim Made while Under Age 18

A lack of capacity claim may arise most often in the case of an alien who made a false claim to U.S. citizenship while under the age of 18. The fact that the person was not yet 18 years of age is insufficient by itself to establish a lack of capacity.

A capacity assessment, in this instance, relies on determining whether the alien who made the false claim while under age 18 had the maturity and the judgment to understand and appreciate the nature and consequences of his or her actions at the time the false claim was made.

Sufficient capacity for knowledge at the time of the claim is not an element that the government must prove. As long as there is some evidence in the record that reasonably calls the alien's admissibility into question, the alien has the burden to prove that he or she is not inadmissible.

The alien may establish that he or she did not have the capacity to judge the nature and consequences of a false citizenship claim due to age or cognitive impairment. The alien must establish the lack of capacity clearly and beyond doubt. The alien's capacity for knowledge is an individualized inquiry, and it depends on the unique circumstances of each particular case.

E. Purpose or Benefit under INA or Any State or Federal Law

1. Any Purpose or Benefit

The law only makes an alien inadmissible for falsely claiming U.S. citizenship if the alien falsely represents him or herself to be a citizen of the United States "for any purpose or benefit" under the INA, including [INA 274A](#), or any other federal or state law.^[20]

The provision for inadmissibility based on false claim to U.S. citizenship^[21] uses "or" rather than "and" as the conjunction between "purpose" and "benefit." There may be cases in which the facts show that the alien intended to achieve both a purpose and obtain a benefit. However, an alien can also be inadmissible based on a false claim made with the specific intent to achieve an improper purpose, even if it did not involve an application for any specific benefit.

Furthermore, U.S. citizenship must affect or matter to the purpose or benefit sought. That is, U.S. citizenship must be material to the purpose or benefit sought.^[22]

In sum, even though an alien may have falsely claimed U.S. citizenship, he or she is only inadmissible if:

- The alien made the false claim with the subjective intent of obtaining a benefit or achieving a purpose under the INA or any other federal or state law, as shown by direct or circumstantial evidence; and
- U.S. citizenship affects or matters to the purpose or benefit sought, that is, it must be material to obtaining the benefit or achieving the purpose.

<https://www.uscis.gov/policy-manual/volume-8-part-k-chapter-2>

Go

OCT NOV DEC

30

2018 2019 2020



5 captures

23 Aug 2019 – 30 Nov 2019

About this capture

dependent on the circumstances of each case. The alien has the burden to show, either with direct or circumstantial evidence, that he or she did not have the subjective intent of obtaining the benefit.^[24]

Whether U.S. citizenship actually affects or matters to the benefit sought is determined objectively. If the benefit requires U.S. citizenship as part of eligibility, then the alien's false claim is material.^[25] If the claim to citizenship has a natural tendency to influence the official decision to grant or deny the benefit sought, the claim is material.^[26] It is the alien's burden to show that U.S. citizenship is not relevant to obtaining the benefit.

If U.S. citizenship is irrelevant to the benefit at issue, the alien's false claim to U.S. citizenship does not make him or her inadmissible unless the evidence provides a basis for finding that the alien made the false claim to achieve a purpose under federal or state law.

For purposes of a false claim to U.S. citizenship,^[27] a benefit must be identifiable and enumerated in the INA or any other federal or state law.

A benefit includes but is not limited to:

- A U.S. passport;^[28]
- Entry into the United States;^[29] and
- Obtaining employment, loans, or any other benefit under federal or state law, if citizenship is a requirement for eligibility.^[30]

3. Intent to Achieve a Purpose

Whether an alien made the false claim with the specific intent of achieving a purpose is a question of fact and dependent on the circumstances of each case. The alien has the burden to show, either with direct or circumstantial evidence, that he or she did not have the subjective intent of achieving the purpose.^[31]

Whether U.S. citizenship actually affects or matters to the purpose is determined objectively. U.S. citizenship affects or matters to the purpose, and is material, if it has a natural tendency to influence the applicant's ability to achieve the purpose.^[32] It is the alien's burden to show that U.S. citizenship is not relevant to achieving the purpose.

If U.S. citizenship is irrelevant to achieving the purpose at issue, the alien's false claim to U.S. citizenship does not make him or her inadmissible unless the evidence provides a basis for finding that the alien made the false claim to obtain a benefit under federal or state law.

The term "purpose" includes avoiding negative legal consequences. Negative legal consequences that an alien might seek to avoid by falsely claiming U.S. citizenship include but are not limited to:

- Removal proceedings;^[33]
- Inspection by immigration officials;^[34] and
- Prohibition on unauthorized employment.^[35]

Purpose, however, is not limited to avoiding negative legal consequences. The purpose may also be something more positive. For example, a false claim would be for an improper purpose if a benefit under federal or state law is not restricted to U.S. citizens, but an alien falsely claims to be a U.S. citizen when seeking the benefit to avoid an eligibility or evidentiary requirement that does not apply to citizens seeking the benefit.

Example

<https://www.uscis.gov/policy-manual/volume-8-part-k-chapter-2>

Go

OCT

NOV

DEC



30



2018

2019

2020

[5 captures](#)

23 Aug 2019 - 30 Nov 2019

About this capture

treated U.S. citizens and aliens the same.^[36]

Example

An alien stated twice during DHS interrogation that he was a U.S. citizen. He failed to show he had not made this claim to U.S. citizenship with the subjective intent of achieving the purpose of avoiding removal proceedings. He also failed to show that citizenship did not affect removal proceedings. Therefore, the alien was inadmissible for falsely claiming U.S. citizenship.^[37]

Example

An employer made a job offer to an alien who did not have employment authorization. In completing the USCIS [Form I-9](#), the alien marked the box claiming U.S. citizenship with the intent to avoid the need to obtain and present a valid and unexpired employment authorization document. The alien is inadmissible since the alien made the false claim for the purpose of avoiding additional requirements under the immigration laws.^[38]

Example

An alien applied for a license under state law. The eligibility is not restricted to U.S. citizens but an alien must submit additional evidence that a U.S. citizen is not required to submit. Specifically, an alien must present evidence of lawful status or at least authorization to accept employment. The alien falsely claimed citizenship in order to avoid the additional evidentiary requirements. The alien is inadmissible since the alien made the false claim for the purpose of avoiding additional requirements under state law.^[39]

4. Representation Must Be for Own Benefit

An alien is only inadmissible if the alien makes a misrepresentation for the alien's own benefit. If an alien misrepresents another alien's citizenship, the alien that made the misrepresentation is not inadmissible for falsely claiming U.S. citizenship.^[40]

5. For Purpose of Coming into the United States

An alien who makes a successful false claim to U.S. citizenship or nationality at the port-of-entry and who is allowed into the United States has not been admitted. In order for an alien to be admitted, CBP must have authorized the alien to enter the United States after the alien came to the port-of-entry and sought admission as an alien.^[41]

However, the law and precedents relating to what qualifies as the admission of an alien do not apply to U.S. citizens and nationals. U.S. citizens and nationals are not subject to the same inspection process as aliens. If CBP believes the person is a U.S. citizen or national, CBP cannot prevent the person's return to the United States. It is well-settled that someone who is allowed to come into the United States as a U.S. citizen or national has not been admitted.^[42]

Therefore, an alien who comes into the United States under a false claim to U.S. citizenship is not only inadmissible for falsely claiming U.S. citizenship, but may also be inadmissible as an alien who is in the United States without inspection and admission or parole.^[43]

An alien who comes into the United States based on a false claim to U.S. *nationality* is not inadmissible under the provision relating to false claims to citizenship.^[44] However, the person may be inadmissible as an alien who is in the United States without inspection and admission or parole.

6. False Claim Made by an Agent or Representative

If an applicant's attorney or agent makes the false representation, the applicant is held responsible if it is established that the applicant was aware of the action taken by the representative in furtherance of the applicant's benefit application. This includes oral misrepresentations made at the border by a person assisting an alien to enter illegally. Furthermore, an alien cannot deny responsibility for any misrepresentation made on the advice of another person unless the alien establishes that he or she lacked the capacity to exercise judgment.^[45]

<https://www.uscis.gov/policy-manual/volume-8-part-k-chapter-2>

Go

OCT NOV DEC

30

2018 2019 2020



5 captures

23 Aug 2019 – 30 Nov 2019

About this capture

timely retracts the statement, it acts as a defense to the inadmissibility ground. A USCIS officer would then decide the case as if the fraud or misrepresentation had never happened.

In principle, an alien might also timely retract a false claim to U.S. citizenship. If the alien does so, he or she would not be inadmissible for this inadmissibility ground. The retraction has to be voluntary and timely in order to be effective.^[47] The applicant must correct the representation before an officer or U.S. government official challenges the applicant's truthfulness and before the conclusion of the proceeding during which the applicant gave false testimony. A retraction can be voluntary and timely if made in response to an officer's question during which the officer gives the applicant a chance to explain or correct a potential misrepresentation.

Admitting to the false representation after USCIS has challenged the veracity of the claim is not a timely retraction.^[48] For example, an applicant's recantation of the false testimony is neither voluntary nor timely if made a year later and only after it becomes apparent that the disclosure of the falsity of the statements is imminent.^[49] A retraction or recantation can only be timely if the alien makes it in the same proceeding in which the alien gives the false testimony or misrepresentation.^[50]

Further, a retraction or recantation of a false claim to U.S. citizenship is only timely if the alien makes it in the same proceeding in which he or she made the false claim. For example, disclosing in an adjustment application that one falsely claimed to be a citizen in completing a [Form I-9](#), registering to vote, or seeking any other benefit would not be a timely retraction. The false claim was complete when the alien submitted the [Form I-9](#), registered to vote, or sought the other benefit. The disclosure of the false claim on the adjustment of status application, therefore, would be part of a different proceeding.

Footnotes

1. [^] Falsely represented includes whether the applicant misrepresented the fact that the applicant is a citizen of the United States with the knowledge that the representation is not true.
2. [^] See [INA 212\(a\)\(6\)\(C\)\(ii\)\(I\)](#).
3. [^] See [INA 212\(a\)\(6\)\(C\)\(i\)](#).
4. [^] For example, the alien could make a false claim to U.S. citizenship to comply with the employment verification requirements under [INA 274A](#).
5. [^] See [INA 101\(a\)\(22\)](#).
6. [^] See [INA 308](#). As of 2014, American Samoa (including Swains Island) is the only outlying possession of the United States, as defined under [INA 101\(a\)\(29\)](#). See Volume 12, Citizenship and Naturalization [[12 USCIS-PM](#)].
7. [^] See [U.S. Constitution, amend. XIV](#). See [INA 301](#). See [INA 309](#). See Volume 12, Citizenship and Naturalization [[12 USCIS-PM](#)].
8. [^] See [INA 212\(a\)\(6\)\(C\)\(ii\)\(I\)](#).
9. [^] For example, if the false claim to U.S. nationality was made to a U.S. government official in seeking an immigration benefit. See [INA 212\(a\)\(6\)\(C\)](#). See Part J, Fraud and Willful Misrepresentation [[8 USCIS-PM J](#)].
10. [^] In *Ateka v. Ashcroft*, 384 F.3d 954 (8th Cir. 2004) and in *Rodriguez v. Mukasey*, 519 F.3d 773 (8th Cir. 2008), the applicants specifically testified that they claimed to be citizens when checking the particular box on [Form I-9](#). Based on this testimony, the court determined that the applicants were inadmissible on account of falsely claiming U.S. citizenship. The Board of Immigration Appeals (BIA) non-precedent decisions seem to draw on this distinction. See *Matter of Oduor*, 2005 WL 1104203 (BIA 2005). See *Matter of Soriano-Salas*, 2007 WL 2074526 (BIA 2007).
11. [^] See *U.S. v. Karaouni*, 379 F.3d 139 (9th Cir. 2004).
12. [^] In *Ateka v. Ashcroft*, 384 F.3d 954 (8th Cir. 2004), *Matter of Oduor*, 2005 WL 1104203 (BIA 2005), and *Matter of Soriano-Salas*, 2007 WL 2074526 (BIA, June 5, 2007), for example, the evidence showed that the applicant had no

<https://www.uscis.gov/policy-manual/volume-8-part-k-chapter-2>

Go

OCT NOV DEC

30

2018 2019 2020



5 captures

23 Aug 2019 - 30 Nov 2019

About this capture

applies to an alien who has been admitted but has become removable on account of the false representation. Also, if an alien falsely claims citizenship by voting, that alien would also be inadmissible under [INA 212\(a\)\(10\)\(D\)](#), which declares an alien inadmissible who votes in violation of any federal, state, or local law.

14. [^] The date this inadmissibility ground became effective. See Section 344(c) of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), [Pub. L. 104-208](#) (September 30, 1996).
15. [^] See [INA 212\(a\)\(6\)\(C\)\(i\)](#). For more information on inadmissibility based on fraud and willful misrepresentation, see Part J, Fraud and Willful Misrepresentation [[8 USCIS-PM J](#)].
16. [^] See Chapter 1, Purpose and Background, Section B, Background [[8 USCIS-PM K.1\(B\)](#)].
17. [^] See [9 FAM 302.9-5](#), Falsely Claiming Citizenship - INA 212(a)(6)(C)(ii).
18. [^] For more information, see Part J, Fraud and Willful Misrepresentation, Chapter 3, Adjudicating Inadmissibility, Section D, Willfulness [[8 USCIS-PM J.3\(D\)](#)].
19. [^] It is the applicant's burden to establish that he or she is not inadmissible. See [INA 291](#). See [Matter of Arthur \(PDF\)](#), 16 I&N Dec. 558 (BIA 1978).
20. [^] See [INA 212\(a\)\(6\)\(C\)\(ii\)](#).
21. [^] See [INA 212\(a\)\(6\)\(C\)\(ii\)](#).
22. [^] For more information on materiality, see Part J, Fraud and Willful Misrepresentation, Chapter 3, Adjudicating Inadmissibility, Section E, Materiality [[8 USCIS-PM J.3\(E\)](#)].
23. [^] See [Matter of Richmond](#), 26 I&N Dec. 779, 787-88 (BIA 2016).
24. [^] See [Matter of Richmond](#), 26 I&N Dec. 779, 786-787 (BIA 2016). See [Crocock v. Holder](#), 670 F.3d 400 (2nd Cir. 2012).
25. [^] See [Kungys v. United States](#), 485 U.S. 759, 770 (1988).
26. [^] See [Kungys v. United States](#), 485 U.S. 759, 770 (1988). A false claim has a natural tendency to influence the official decision to grant or deny the benefit if the person would not obtain the benefit on the true facts, or if the false claim tends to cut off a line of inquiry, which is relevant to the eligibility and which might have resulted in a proper determination that the alien is not eligible for the benefit.
27. [^] See [INA 212\(a\)\(6\)\(C\)\(ii\)](#).
28. [^] See [Matter of Barcenas-Barrera \(PDF\)](#), 25 I&N Dec. 40 (BIA 2009). See [Matter of Villanueva \(PDF\)](#), 19 I&N Dec. 101, 103 (BIA 1984).
29. [^] See [Matter of Barcenas-Barrera \(PDF\)](#), 25 I&N Dec. 40 (BIA 2009). See [Jamieson v. Gonzales](#), 424 F.3d 765 (8th Cir. 2005). See [Reid v. INS](#), 420 U.S. 619 (1975).
30. [^] See [Dakura v. Holder](#), 772 F.3d 994 (4th Cir. 2014). See [Crocock v. Holder](#), 670 F.3d 400, 403 (2nd Cir. 2012). See [Castro v. Att'y Gen. of U.S.](#), 671 F.3d 356, 368 (3rd Cir. 2012). See [Rodriguez v. Mukasey](#), 519 F.3d 773 (8th Cir. 2008). See [Kechkar v. Gonzales](#), 500 F.3d 1080 (10th Cir. 2007). See [Theodros v. Gonzales](#), 490 F.3d 396 (5th Cir. 2007). See [Matter of Bett \(PDF\)](#), 26 I&N Dec. 437 (BIA 2014).
31. [^] See [Matter of Richmond](#), 26 I&N Dec. 779, 786-787 (BIA 2016). See [Crocock v. Holder](#), 670 F.3d 400 (2nd Cir. 2012).
32. [^] See [Kungys v. United States](#), 485 U.S. 759, 770 (1988). A false claim has a natural tendency to influence the official decision to grant or deny the benefit if the person would not obtain the benefit on the true facts, or if the false claim tends to cut off a line of inquiry, which is relevant to the eligibility and which might have resulted in a proper determination that the alien is not eligible for the benefit.
33. [^] See [Matter of Richmond](#), 26 I&N Dec. 779 (BIA 2016).
34. [^] See [Matter of Pinzon \(PDF\)](#), 26 I&N Dec. 189 (BIA 2013). See [Matter of F- \(PDF\)](#), 9 I&N Dec. 54 (BIA 1960).

<https://www.uscis.gov/policy-manual/volume-8-part-k-chapter-2>

Go

OCT NOV DEC

30

2018 2019 2020



About this capture

5 captures

23 Aug 2019 – 30 Nov 2019

detection by immigration authorities seemed to have been built solely on the assumption that this was a reasonable purpose to ascribe to Castro because he was undocumented. Therefore, the court decided that the BIA and the IJ erred in coming to this conclusion. The purpose imputed by the BIA to Castro would have applied to virtually any false claim to citizenship made by an alien unlawfully present in the country because the absence of legal status always provides a reason to wish to avoid the attention of DHS. Therefore, the construction threatened to read the limiting language—the requirement that the “purpose or benefit” be “under” the INA or any other federal or state law—out of INA 212(a)(6)(C)(ii) entirely.

37. [^] See *Matter of Richmond*, 26 I&N Dec. 779 (BIA 2016).

38. [^] See *Matter of Bett* (PDF), 26 I&N Dec. 437 (BIA 2014).

39. [^] This conclusion is consistent with the rationale of *Matter of Richmond*, 26 I&N Dec. 779 (BIA 2016).

40. [^] See Department of State Cable (no. 97-State-174342) (September 17, 1997). However, falsely claiming citizenship on behalf of another alien may make the alien inadmissible for alien smuggling. See *Matter of M-R*, 6 I&N Dec. 259, 260 (BIA 1954).

41. [^] See *Matter of Quilantan* (PDF), 25 I&N Dec. 285 (BIA 2010). See Volume 7, Adjustment of Status, Part B, 245(a) Adjustment, Chapter 2, Eligibility Requirements, Section A, “Inspected and Admitted” or “Inspected and Paroled” [7 USCIS-PM B.2(A)(2)].

42. [^] See *Reid v. INS*, 420 U.S. 619 (1975). See *Matter of Pinzon* (PDF), 26 I&N Dec. 189 (BIA 2013). See *Matter of S-*, 9 I&N Dec. 599 (PDF) (BIA 1962).

43. [^] Similarly, a lawful permanent resident (LPR) returning from a temporary trip abroad is not considered to be seeking admission or readmission to the United States unless one of the factors in INA 101(a)(13)(C) is present. See *Matter of Collado-Munoz* (PDF), 21 I&N Dec. 1061 (BIA 1998). Because the returning LPR is not an arriving alien who is an applicant for admission unless one of the factors in INA 101(a)(13)(C) is present, the alien is not inspected as an arriving alien. If the alien makes a false claim to LPR status at a port-of-entry and if the alien is permitted to enter, then the alien has not been admitted for purposes of INA 101(a)(13)(A).

44. [^] See INA 212(a)(6)(C)(ii)(I).

45. [^] For more information, see Section D, Knowledge that Claim Was False, Subsection 4, Lack of Capacity [8 USCIS-PM K.2(D)(4)].

46. [^] See *Matter of R-R*, 3 I&N Dec. 823 (BIA 1949). See *Matter of M-*, 9 I&N Dec. 118 (PDF) (BIA 1960) (also cited by *Matter of R-S-J-* (PDF), 22 I&N Dec. 863 (BIA 1999)). See 9 FAM 302.9-4(B)(3)(f), Timely Retraction.

47. [^] “If the witness withdraws the false testimony of his own volition and without delay, the false statement and its withdrawal may be found to constitute one inseparable incident out of which an intention to deceive cannot rightly be drawn.” See *Llanos-Senarrilos v. United States*, 177 F.2d 164, 165 (9th Cir. 1949). See *Matter of R-R*, 3 I&N Dec. 823 (BIA 1949). See *Matter of Namio* (PDF), 14 I&N Dec. 412 (BIA 1973), referring to *Matter of M-*, 9 I&N Dec. 118 (PDF) (BIA 1960) and *Llanos-Senarrilos v. United States*, 177 F.2d 164 (9th Cir. 1949).

48. [^] See *Matter of Namio* (PDF), 14 I&N Dec. 412 (BIA 1973).

49. [^] See *Matter of Namio* (PDF), 14 I&N Dec. 412 (BIA 1973).

50. [^] See *Llanos-Senarrilos v. United States*, 177 F.2d 164, 165 (9th Cir. 1949).

Legal Authorities

INA 212(a)(6)(C)(ii) - Illegal entrants and immigration violators - falsely claiming citizenship

Forms

5 captures

23 Aug 2019 - 30 Nov 2019

Appendices

No appendices available at this time.

Technical Update - Replacing the Term “Foreign National”

October 08, 2019

This technical update replaces all instances of the term “foreign national” with “alien” throughout the Policy Manual as used to refer to a person who meets the definition provided in INA 101(a)(3) [“any person not a citizen or national of the United States”].

[Read More](#)

AFFECTED SECTIONS

1 USCIS-PM - Volume 1 - General Policies and Procedures

2 USCIS-PM - Volume 2 - Nonimmigrants

6 USCIS-PM - Volume 6 - Immigrants

7 USCIS-PM - Volume 7 - Adjustment of Status

8 USCIS-PM - Volume 8 - Admissibility

9 USCIS-PM - Volume 9 - Waivers

10 USCIS-PM - Volume 10 - Employment Authorization

11 USCIS-PM - Volume 11 - Travel and Identity Documents

12 USCIS-PM - Volume 12 - Citizenship and Naturalization

POLICY ALERT - False Claim to U.S. Citizenship Ground of Inadmissibility

December 14, 2016

U.S. Citizenship and Immigration Services (USCIS) is issuing guidance to address the false claim to U.S. citizenship ground of inadmissibility under section 212(a)(6)(C)(ii) of the Immigration and Nationality Act (INA).

[Read More](#)

AFFECTED SECTIONS

8 USCIS-PM - Part K - False Claim to U.S. Citizenship

<https://www.uscis.gov/policy-manual/volume-8-part-k-chapter-2>

Go

OCT NOV DEC

◀ 30 ▶

2018 2019 2020



▼ About this capture

[5 captures](#)

23 Aug 2019 – 30 Nov 2019

Current as of November 21, 2019