

MILPERSMAN 5352-010

NATURALIZATION AND DERIVED CITIZENSHIP OF MILITARY PERSONNEL

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References	(a) 8 U.S.C. §1431 (b) DoD Instruction 5500.14 of 4 Jan 06 (c) 8 U.S.C. §1440 (d) 8 U.S.C. §1439 (e) USCIS memo of 10 Jun 08 (f) Public Law 108-136 (g) SECNAV M-5510.30 of 30 Jun 06 (h) U.S. Navy Guide to Naturalization Applications Based upon Qualifying Military Service
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1. **Definitions.** U.S. Citizenship and Immigration Services (USCIS) oversees two paths to documented citizenship for military personnel:

a. "Naturalization" is the process by which a non-U.S. citizen becomes a U.S. citizen. Both foreign nationals and U.S. nationals (individuals who are born in a U.S. territory, but do not have full citizenship status) may be eligible to apply for naturalization.

b. "Derived citizenship" is an automatic grant of citizenship subject to the requirements of reference (a). An individual who is eligible for derived citizenship is already a U.S. citizen; and therefore, cannot apply for naturalization. Individuals with derived citizenship are often unaware or unable to prove their citizenship status and should apply for N-560 Certificate of Citizenship (using Form N-600 Application for Certificate of Citizenship) or a U.S. Passport to document their U.S. citizen status. Form N-600 and application instructions may be accessed by using the following Web address:
<http://www.uscis.gov/n-600>.

2. Background

a. Reference (a) establishes the conditions required for children born abroad to derive U.S. citizenship. Reference (b) establishes military naturalization policy for all DoD components. References (c) and (d) establish peacetime and wartime eligibility requirements for non-U.S. citizen members of the military to apply for naturalization.

b. Thousands of active-duty and reserve Sailors are classified as non-U.S. citizens. This number includes:

(1) foreign nationals, U.S. nationals, and U.S. citizens (under reference (a)) who are unaware of, or cannot prove their citizenship status;

(2) members who have been naturalized, granted Form N-560, or a U.S. Passport, but have failed to update their personnel records; and

(3) Service members who have applied for naturalization, Form N-560, or a U.S. Passport (via Department of State) using Form DS-11 Application for a U.S. Passport to document their U.S. citizen status while attending their initial recruit training, but have not provided USCIS with updated contact information.

In addition, Sailors with derived citizenship are often unaware of their citizenship status and are not familiar with the process through which they can document their citizenship.

c. Non-U.S. citizen Sailors who become U.S. citizens can benefit by receiving increased opportunities for assignments. Many programs, including officer commissioning programs, the right to vote, and issuance of a security clearance depend upon citizenship. Naturalization benefits military families by opening immigration opportunities for non-U.S. citizen family members. Naturalization also has a positive effect on operational readiness, diversity within the ranks, morale, and retention.

d. The naturalization process historically required a waiting period, application fee, and lengthy application processing times. Through an agreement between DoD and USCIS, naturalization applications from military personnel receive expedited processing. Currently, USCIS will waive any applicable application fees and the residency requirement for military

personnel honorably serving after 11 September 2001. Sailors should be encouraged to promptly take advantage of these waivers because this agreement could expire at any time.

e. Per reference (e), USCIS field office directors are required to make and maintain contacts at military installations, bring immigration services to Service members and their families at military installations on a regular basis, and naturalize qualified Service members domestically as soon after enlistment as possible and before deployment overseas.

3. Naturalization

a. **Naturalization of Members Lawfully Admitted to the U.S. (under reference (d), §1439 (peacetime)).** Per references (b) and (d), members who have been lawfully admitted to the U.S. for permanent residency and who are lawful permanent residents may meet residence requirements for naturalization by serving honorably in the Armed Forces of the U.S. for a total of 1 year. Application for naturalization must be filed while the Service member is still in military service, or within 6 months after separation date, provided separation was under honorable conditions.

b. **Naturalization of Members (under reference (c), §1440 (wartime)).**

(1) Per references (b) and (c), Service members may qualify for naturalization, regardless of whether they have been lawfully admitted to the U.S. for permanent residence, provided one of the following conditions is met, and they have served honorably as a member of the Selected Reserve, of the Ready Reserve, or in an active-duty status in the military, air, or naval forces of the U.S. during any of the following periods:

(a) between 1 September 1939 and 31 December 1946;

(b) between 25 June 1950 and 1 July 1955;

(c) between 28 February 1961 and 15 October 1978;

(d) between 2 August 1990 and 11 April 1991;

(e) between 11 September 2001 and a date to be designated by future executive order (EO) of the President; or

(f) any future period of armed conflict with a hostile foreign force, as designated by EO.

(2) Residence in the U.S. or a specified period of physical presence in the U.S. is not required.

(3) Only 1 day of honorable service is required during periods designated by EO.

(4) At time of enlistment, reenlistment, extension of enlistment, or induction, such person must have been in the U.S., Canal Zone, American Samoa, Swains Island, or onboard a public vessel owned or operated by the U.S. for noncommercial service, regardless of whether the Service member has been lawfully admitted to the U.S. for permanent residence.

4. Responsibilities

a. Navy Recruiting Command (NAVCRUITCOM) must ensure that all non-U.S. citizen enlistees are advised of their eligibility for expedited naturalization processing.

b. Recruit Training Command (NAVCRUITRACOM) must

(1) ensure that all non-U.S. citizen incoming recruits are briefed on the application procedures for naturalization (Form N-560 (if applicable) or a U.S. Passport, via Department of State, using Form DS-11; and

(2) make recruits available to USCIS while at NAVCRUITRACOM on a "not to interfere with their training pipeline" basis to commence, and (if possible) complete their naturalization processing.

c. Commanding officers (COs) of region legal service offices must

(1) designate a region citizenship program manager (RCPM) in writing to oversee the Naturalization Program within their Navy region area of responsibility. For purposes of continuity, and when practical, the RCPM should be a civilian employee;

(2) designate in writing sufficient naturalization area coordinators (NACs) to service the region of responsibility;

(3) notify the Office of the Judge Advocate General (OJAG), Legal Assistance Division (Code 16) whenever an RCPM or NAC is appointed, removed, or replaced;

(4) include naturalization and citizenship training in command outreach briefs; and

(5) ensure compliance of RCPMs and NACs with their duties.

d. Commanders, COs, and officers in charge must

(1) designate a command citizenship representative (CCR) in writing;

(2) notify the NAC of the designation and contact information whenever a CCR is appointed, removed, or replaced;

(3) ensure continuing compliance of CCRs with the qualifications criteria, functions, and training for CCRs; and

(4) ensure all non-U.S. citizen members in their command are briefed on the application procedures for naturalization (Form N-560 (if applicable) or a U.S. Passport, via Department of State, using Form DS-11.

e. OJAG (Code 16) must

(1) provide training materials to RCPMs, NACs, and CCRs;

(2) ensure electronic reference materials on naturalization are available to RCPMs, NACs, and CCRs;

(3) publish immigration advisories;

(4) maintain an online forum for use by RCPMs to exchange information between subject matter experts;

(5) maintain a distribution list of RCPMs and NACs; and

(6) serve as the primary Navy liaison with USCIS headquarters.

f. RCPMs must

(1) supervise, train, and assist NACs and CCRs within their respective regions;

(2) maintain a database of NACs and CCRs in their respective regions; and

(3) coordinate with NACs to ensure that regional public affairs officers (PAOs) are informed of naturalization outreaches and ceremonies.

g. NACs must

(1) supervise and assist CCRs in NAC's area;

(2) coordinate with local commands to ensure that CCRs are assigned;

(3) maintain a database of CCRs in their respective region, as well as report names, and contact information of CCRs to RCPM;

(4) conduct quality control checks of applications;

(5) provide naturalization and citizenship outreach briefings;

(6) serve as the Navy liaison in their area with USCIS district offices and the local field office directors; and

(7) ensure that regional PAOs are informed of naturalization outreaches and ceremonies.

h. CCRs must

(1) coordinate with NACs to provide naturalization and citizenship command outreach briefs;

(2) consult with NACs to determine whether a Service member has derived U.S. citizenship per reference (a);

(3) conduct non-substantive quality control checks on USCIS Form N-400 Application for Naturalization (i.e., ensure that all required blocks are filled in and inform the applicant that erroneous information must be corrected by the applicant).

(4) if additional guidance is required, refer Service member to the NAC for substantive review of application;

(5) arrange for fingerprinting at authorized USCIS application support centers;

(6) coordinate with personnel support detachment (PSD) or personnel office to complete Form N-426 Request for Certification of Military or Naval Service.;

(7) forward completed application packages to the Central Military Processing Unit, Lincoln, NE;

(8) instruct Service members who apply for naturalization, Form N-560, or a U.S. Passport (via Department of State) using Form DS-11 to provide the U.S. Department of State and USCIS with updated contact and residential information within 10 days of a move; and

(9) assist Service members with documenting their U.S. citizen status in their personnel records per MILPERSMAN 1070-220 and confirm the record has been updated by verification using information contained in Fleet Management and Planning System or Enlisted Distribution Verification Report.

5. Application for Naturalization

a. For recruits, USCIS conducts an on-site application process at NAVCRUITRACOM to include initial forms completion, supporting documents review and submission, fingerprinting, photos, interview, and oath ceremony.

b. Outside of NAVCRUITRACOM, Service members meeting the above criteria who desire to obtain U.S. citizenship should contact their CCR for assistance.

c. With the aid of a CCR, NAC, RCPM, PSD, or personnel office, and or command or staff judge advocates; applicants will complete applications, and their commands will forward the completed applications to the following address:

U.S. Department of Homeland Security Citizenship and Immigration Services Nebraska Service Office P.O. Box 87426 Lincoln, NE 68501-7426

d. Once processing is completed, every applicant must appear before USCIS on scheduled dates for interview and oath ceremony. Processing applications of non-citizen Service members of the Armed Forces requires a minimum of 90 days, but may take longer, depending upon the caseload of offices where the application is filed, the security background clearance, the location of the interview and oath ceremony, and circumstances of the individual case.

6. **Application for Certificate of Citizenship**

a. Since the passage of reference (a), increasing numbers of Service members have derived citizenship through a parent and do not require naturalization. CCRs must thoroughly screen members to determine their citizenship status before assisting them with applying for naturalization.

b. When a Service member derives U.S. citizenship from a U.S. citizen parent, the NAC and RCPM may assist the Service member with applying for a Form N-560 using Form N-600. The application fee is waived for active duty Service members, reservists, retirees, and veterans.

c. Once processing is completed by USCIS, the applicant must appear before USCIS on a scheduled date to take the Oath of Allegiance. Processing applications generally takes 6 months or longer, but a request to expedite an application may be granted for good cause. If approved by USCIS, Form N-560 is issued to the applicant. Form N-560 is conclusive proof of U.S. citizenship, just as is Form N-550 Certificate of Naturalization, Form N-570 Replacement Certificate of Naturalization, or a U.S. Passport.

d. Both a naturalized U.S. citizen and a U.S. citizen through derivation may apply for a U.S. Passport.

7. **Overseas Assignment**. Naturalization proceedings are available through U.S. embassies, consulates, and (as practicable) U.S. military installations overseas.

8. **Expedited Application Finalization**

a. Per reference (f), the Secretary of Defense has prescribed a policy that facilitates the opportunity for a

member of the Armed Forces to finalize naturalization for which the member has applied. The policy includes

(1) a high priority for granting emergency leave; and

(2) a high priority for transportation on aircraft of, or chartered by the Armed Forces.

b. R & R leave may be granted when members receive written notification from USCIS stating that their application has been processed and that they are requested to appear with U.S. citizen witnesses before a representative of USCIS at a designated location for purpose of completing the naturalization process.

c. Members granted leave for such purposes should advise USCIS (if possible) when they expect to arrive in leave area and contact that office immediately upon arrival. Every effort will be made by USCIS to complete naturalization within the leave period.

9. **Security Clearance**. Per reference (g), security clearance and access to classified information for an immigrant alien or foreign national is limited. U.S. citizenship is normally a basic condition for access to classified information and assignment to sensitive positions. Many positions in the military require U.S. citizenship; therefore, expeditious attainment of U.S. citizenship by non-citizen Service members is highly encouraged because it enhances operational readiness. As some countries allow dual-citizenship, which may affect a Service member's ability to have a security clearance, newly naturalized Service members should be counseled regarding the benefits of renunciation of their former citizenship.

10. **Required Forms**. The following forms required for naturalization or citizenship purposes may be obtained at the following Web address: <http://www.uscis.gov/forms>.

Form	How to Submit
N-400 Application for Naturalization	Submit original to U.S. Citizenship and Immigration Services (USCIS).
N-600 Application for Certificate of Citizenship	Submit original to USCIS.

Form	How to Submit
FD-258 Fingerprint Card <u>Overseas</u> <u>Recruit Training Command (NAVCRUITRACOM)</u> <u>U.S. (but not at Recruit Training Command)</u>	<p>Submit two cards to USCIS. Military police may take applicant's fingerprints or applicant may go to nearest U.S. consulate.</p> <p>For applicants still at NAVCRUITRACOM, USCIS will take the fingerprints to NAVCRUITRACOM.</p> <p>Applicants in the U.S. may not submit FD-258 as part of the application. Applicants must have fingerprints taken at the local USCIS application support center (ASC), which will process the fingerprints separately. The ASC may require a DoD Fingerprint Authorization letter completed by the CCR who assigns an appointment date and time (without prior approval from USCIS ASC). Contact OJAG (Code 16) for a copy of the most recent template for the DoD Fingerprint Authorization Letter.</p>
N-426 Request for Certification of Military or Naval Service	<p>Military members will fill out the form and submit to their local personnel support detachment or personnel office. Upon certification, CCR submits to USCIS.</p>

11. **Further Assistance**

a. Advice and assistance for RCPMs, NACs and CCRs concerning naturalization laws may be obtained from the following:

Legal Assistance Division Office of Judge Advocate General (Code 16) 1322 Patterson Avenue, SE, Suite 3000 Washington Navy Yard, DC 20374-5066 Telephone: (202) 685-4641 DSN: 325-4641

b. Copies of necessary forms may be accessed by using the following Web address: <http://uscis.gov/forms>.

c. Contact OJAG (Code 16) for a copy of reference (h).