



August 2, 2022

PA-2022-19

## Policy Alert

SUBJECT: Uncharacterized Military Discharges Eligible for Naturalization

### Purpose

U.S. Citizenship and Immigration Services (USCIS) is issuing policy guidance in the [USCIS Policy Manual](#) to address eligibility of military service members with uncharacterized military discharges for purposes of naturalization under section 328 or section 329 of the Immigration and Nationality Act (INA).

### Background

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.”<sup>1</sup> Members of the U.S. armed forces who serve honorably for any period of time during specifically designated periods of hostilities may also be eligible to naturalize.<sup>2</sup> Both types of military naturalization provisions require that if the applicant has separated from service, the separation must be “under honorable conditions.”<sup>3</sup>

Previously, USCIS interpreted “under honorable conditions” to require that the service member’s discharge was characterized as either “Honorable” or “General-Under Honorable Conditions.” USCIS has now reconsidered this interpretation in light of a recent district court decision holding that an “Uncharacterized” discharge is “under honorable conditions,”<sup>4</sup> and in accordance with a U.S. Department of Defense Instruction (DoDI) that treats an “Uncharacterized” discharge as a separation under honorable conditions for most administrative purposes.<sup>5</sup> As a result, USCIS has determined that an “Uncharacterized” discharge also satisfies the statutory requirement of a separation “under honorable conditions.”

This guidance, contained in Volume 12 of the Policy Manual, is effective immediately and applies to all currently pending applications as well as to applications filed on or after August 2, 2022.

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<sup>1</sup> See [INA 328](#).

<sup>2</sup> See [INA 329](#).

<sup>3</sup> See [INA 328\(a\)](#) and [INA 329\(a\)](#). See [8 CFR 328.2\(a\)](#) and [8 CFR 329.2\(b\)](#).

<sup>4</sup> See *Alam v. USCIS, et al.*, \_\_\_ F.Supp.3d \_\_\_ (D.Minn. Mar. 21, 2022).

<sup>5</sup> See [Enlisted Administration Separations](#), U.S. Department of Defense Instruction No. 1332.14, Enclosure 4, Section 3(c)(1)(c), signed January 27, 2014 (effective Sept. 1, 2021) (“With respect to administrative matters outside this instruction that require a characterization as honorable or general, an entry-level separation will be treated as the required characterization.”).

Applicants whose military naturalization applications were previously denied under the prior interpretation may submit another Application for Naturalization ([Form N-400](#)). There is no filing fee for Form N-400 for current or former members of the U.S. armed forces. The guidance contained in the Policy Manual is controlling and supersedes any related prior guidance on the topic.

### **Policy Highlights**

- Provides that USCIS will now consider "uncharacterized" military discharges to be under honorable conditions for purposes of naturalization under INA 328 and INA 329.

### **Summary of Changes**

Affected Section: Volume 12 > Part I > Chapter 2 > Section B, Honorable Service

- Separates first sentence into two.
- Revises third paragraph by adding “uncharacterized.”
- Adds new footnote number 5.

Affected Section: Volume 12 > Part I > Chapter 3 > Section B, Honorable Service

- Deletes the word “only” from the second paragraph.
- Revises third paragraph by adding “uncharacterized.”
- Adds new footnote number 7.

### **Citation**

Volume 12: Citizenship and Naturalization, Part I, Military Members and their Families, Chapter 2, One Year of Military Service during Peacetime (INA 328) [[12 USCIS-PM I.2](#)]; Chapter 3, Military Service during Hostilities (INA 329) [[12 USCIS-PM I.3](#)].