



October 28, 2014

PA-2014-009

Policy Alert

SUBJECT: Effect of Assisted Reproductive Technology (ART) on Immigration and Acquisition of Citizenship Under the Immigration and Nationality Act (INA)

Purpose

U.S. Citizenship and Immigration Services (USCIS) is issuing policy guidance in the [USCIS Policy Manual](#) and [Adjudicator's Field Manual \(AFM\)](#) to provide guidance relating to the use of Assisted Reproductive Technology (ART).

Background

USCIS and the Department of State (DOS), who share authority over these issues, collaborated in the development of this policy. A non-genetic gestational mother (person who carried and gave birth to the child) who is also the child's legal mother may be recognized in the same way as genetic legal mothers are treated under the INA. Previously, a genetic relationship with a U.S. citizen parent was required in order for a child born abroad to acquire citizenship at birth through his or her parent.

Policy Highlights

- A "natural mother" or "natural father" is a genetic parent or gestational parent. Accordingly, the "natural mother" of a child born out of wedlock includes a non-genetic gestational mother if she is the legal parent at the time of birth.
- A gestational mother has a petitionable relationship without a genetic relationship to the child, as long as she is also the child's legal parent at the time of birth.
- A non-genetic gestational legal mother who is a U.S. citizen may transmit citizenship at birth, or after birth, when all other pertinent citizenship and naturalization requirements are met.

Citations

Volume 12: Citizenship and Naturalization, Part H, Children of U.S. Citizens [[12 USCIS-PM H](#)]; Adjudicator's Field Manual (AFM), Chapter 21.4, Petition by Citizen or Lawful Permanent Resident for Child, Son, or Daughter. [[AFM 21.4](#)].



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OUTREACH

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Policy Manual for Comment



Policy for Review

USCIS seeks your input on the [USCIS Policy Manual](#) items listed below. Sections of the USCIS Policy Manual that contain new or revised policy guidance will be posted on the Feedback Opportunities page of [uscis.gov](#) with instructions on how to submit comments. These documents are interim guidance to USCIS Field Offices and Service Centers.

Type of Document for Comment	Title of Document	Related Documents	Opening/Closing Dates for Comment	Effective Date of Policy
USCIS Policy Manual	Volume 1, Part A: Customer Service	Policy Alert	August 26, 2014 - September 9, 2014	August 26, 2014
USCIS Policy Manual	Volume 2, Part J: Trainees (H-3)	Policy Alert	September 9, 2014 - September 19, 2014	September 9, 2014
USCIS Policy Manual	Volume 12, Part H: Children of U.S. Citizens (Update) - Assisted Reproductive Technology	Policy Alert	October 28, 2014 - November 13, 2014	October 28, 2014

Comment Submission Process

Please email all comments to opefeedback@uscis.dhs.gov. Please include the following to make your comments clear:

- State the title of the relevant volume and section in the subject line of your message;
- Refer to a specific portion of the document;
- Explain the reason for any recommended change; and
- Include data, information, or authority that supports the recommendation.

You must submit your comments before the closing date noted in the table above. USCIS may distribute any comments received (including any personal information and contact information) on its public website or to those who request copies. By providing comments, you consent to their use and consideration by USCIS, and you acknowledge that your comments may become public.

Background and Additional Legal Information

In April 2010, USCIS embarked on an unprecedented and comprehensive initiative to examine the agency's adjudication and customer service guidance and policies. This [policy review](#) effort was completed with participation of the USCIS workforce, federal

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partners, our customers and stakeholders, and the general public.

USCIS has now published a new online [USCIS Policy Manual](#) which will serve as a centralized resource for all agency policy and operational guidance. The Policy Manual will be published in iterations, with content being added periodically. Sections of the USCIS Policy Manual that contain new or revised policy guidance will be posted on the Feedback Opportunities page of [uscis.gov](#) with instructions on how to submit comments. The Policy Manual will ultimately replace the Adjudicator's Field Manual (AFM), agency policy memoranda, and other guidance documents.

As part of the agency's commitment to achieving transparency and consistency in the implementation of policy, USCIS invites stakeholders to examine and provide feedback on new or updated policies in the Policy Manual.

Policy guidance documents are available for public review on USCIS's website ([www.uscis.gov](#)) as part of the USCIS Policy Manual. USCIS will post certain sections that contain new or revised policies for public comment. USCIS will not post sections containing information that is law enforcement sensitive, confidential or otherwise protected from disclosure under the Freedom of Information Act. USCIS is not required to solicit public comment on the draft or interim policy memos under the Administrative Procedure Act and therefore cannot guarantee that it will respond to any comments submitted. This informal comment process does not replace any statutory or other legal requirement for public comment on agency action.

Last Reviewed/Updated: 10/29/2014

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