



November 18, 2020

PA-2020-23

Policy Alert

SUBJECT: Prerequisite of Lawful Admission for Permanent Residence under All Applicable Provisions for Purposes of Naturalization

Purpose

U.S. Citizenship and Immigration Services (USCIS) is updating policy guidance in the [USCIS Policy Manual](#) to ensure consistency in the naturalization decision-making process and to clarify circumstances under which an applicant may be found ineligible for naturalization if the applicant was not lawfully admitted to the United States for permanent residence in accordance with all applicable provisions under the Immigration and Nationality Act (INA).¹

Background

In addition to meeting other requirements under the pertinent naturalization provision, a naturalization applicant has the burden of establishing that he or she was lawfully admitted to the United States for permanent residence in accordance with all applicable provisions under the INA at the time of filing the naturalization application.² For example, an applicant is ineligible if he or she obtained lawful permanent resident (LPR) status in error, by fraud, or if the admission was otherwise not in compliance with the law.³ In addition, an applicant for naturalization who has abandoned his or her LPR status is not eligible for naturalization.⁴ The updated guidance contained in Volume 12 of the Policy Manual is controlling and supersedes any related prior USCIS guidance on the topic.⁵

Policy Highlights

- Affirms that an applicant is ineligible for naturalization in cases where the applicant did not obtain LPR status lawfully (including cases where the U.S. government was unaware of disqualifying material facts and had therefore previously granted adjustment of status to that of an LPR or admitted the applicant as an LPR).

¹ See [INA 318](#).

² See [INA 318](#). See *Berenyi v. Dist. Dir., Immigration & Naturalization Serv.*, 385 U.S. 630, 637 (1967) (“it has been universally accepted that the burden is on the alien applicant to show his eligibility for citizenship in every respect”). See *In re Ferenci*, 217 F.Supp. 714 (E.D.Pa. 1963).

³ See [INA 318](#).

⁴ See [INA 318](#) and [INA 101\(a\)\(20\)](#).

⁵ USCIS is also making minor technical updates in other Policy Manual parts consistent with this update.

- Provides further guidance on circumstances under which USCIS may find an applicant to not have been lawfully admitted for permanent residence and therefore ineligible for naturalization.
- Provides that USCIS reviews whether an applicant has abandoned his or her LPR status during the adjudication of the naturalization application.
- Provides that USCIS denies naturalization applications, filed on or after November 18, 2020 (effective date of policy), if the applicant is in removal proceedings because USCIS lacks the authority to consider the merits of a naturalization application if the applicant has a pending removal proceeding initiated by a warrant of arrest.

Citation

Volume 12: Citizenship and Naturalization, Part B, Naturalization Examination, Chapter 4, Results of the Naturalization Examination [[12 USCIS-PM B.4](#)].

Volume 12: Citizenship and Naturalization, Part D, General Naturalization Requirements, Chapter 2, Lawful Permanent Resident Admission for Naturalization [[12 USCIS-PM D.2](#)].

Volume 12: Citizenship and Naturalization, Part F, Good Moral Character, Chapter 2, Adjudicative Factors [[12 USCIS-PM F.2](#)].