

IMMIGRATION OVERVIEW FOR VETERANS SERVICE ORGANIZATIONS

USCIS

September 2023

- Thank you for joining us for our engagement on **Immigration Overview for Veterans Service Organizations**. We recognize and appreciate the assistance you provide to veterans and their families.

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Today's presentation will cover



U.S. Citizenship
and Immigration
Services



- USCIS Overview
- Military Naturalization Overview
- Statutory Provisions
- Family-based Immigration / Petitioning for Family Members
- Naturalization for Family Members
- Discretionary Options for Servicemembers and their family members
- Resources for the Military
- Question and Answer Session

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Today we will provide an informational overview of the immigration and naturalization process for the veterans and their families that you support.

Details of the presentation will include:

- A brief overview of U.S. Citizenship and Immigration Services and our role in the naturalization process;
- An overview of the naturalization process for military members and veterans;
- A summary of the statutory provisions for military naturalization;
- Family-based immigration and petitioning for family members;
- Naturalization for family members;
- Discretionary options available on a case-by-case basis;
- Resources and contacts for military service members, veterans and their families; and
- A question-and-answer session.

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About USCIS



U.S. Citizenship
and Immigration
Services

USCIS oversees lawful immigration to the U.S. and secures America's promise as a nation of welcome and possibility by:

- **Adjudicating applications and petitions for immigration and citizenship benefits;**
- **Promoting an awareness and understanding of citizenship; and**
- **Ensuring the integrity of our immigration system.**

Reads from the slide.

- USCIS oversees lawful immigration to the U.S. and secures America's promise as a nation of immigrants by:
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Military Naturalization Overview



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- Individuals who are serving or have served in the U.S. armed forces may be eligible to apply for naturalization under special provisions of the Immigration and Nationality Act (INA).
- Many military installations have a designated USCIS liaison to help with the Form N-400 Application for Naturalization process.
- Veterans will need to submit a copy of their DD Form 214, Certificate of Release or Discharge from Active Duty; NGB Form 22, National Guard Report of Separation and Record of Service; or an equivalent discharge document for all periods of service.
- Applicants may also complete their application by creating an online account and filing their Form N-400 online.
- For more information about filing online, visit www.uscis.gov/n-400.

- Citizenship is the most important immigration benefit that the U.S. government grants.
- There are three ways to obtain U.S. citizenship:
 1. By birth within the territory of the United States;
 2. Acquired from U.S. citizen parents; and
 3. By naturalization.
- If someone served in the U.S. armed forces or is serving and is interested in becoming a U.S. citizen, they may be eligible to apply for naturalization under special provisions of the Immigration and Nationality Act (INA).
- Many military installations have a designated USCIS liaison to help service members and veterans with the application process.
- Veterans will need to submit a copy of their DD Form 214, Certificate of Release or Discharge from Active Duty; NGB Form 22, National Guard Report of Separation and Record of Service; or an equivalent discharge document for all periods of service.
- Service members, veterans or those assisting them should mail the completed application and all required materials to: USCIS P.O. Box 4446 Chicago, IL 60680-4446.

- Veterans may also complete their application by creating an online account and filing your Form N-400 online.
- For more information about filing the application online, visit www.uscis.gov/n-400
- Let's review some of the eligibility requirements and statutory provisions for military naturalization

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Statutory Provisions



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- If a service member or veteran meets all the requirements of either section 328 or 329 of the Immigration and Nationality Act (INA), they may apply for naturalization by filing [Form N-400, Application for Naturalization](#), under the section that applies to them.

INA section 328:
**One Year of Military
Service at Any Time**

INA section 329:
**Service During
Periods of Hostility**

- If a person meets all the requirements of either Section 328 or 329 of the Immigration Nationality Act (INA), they may apply for naturalization by filing [Form N-400, Application for Naturalization](#) under the section that applies to them.
- Veterans will not have to pay any fees for applying for naturalization under INA 328 or 329.
- Now, we will explore the specific requirements for naturalization under INA 328 and 329 in the following slides.
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INA Section 328



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Military Service at Any Time

INA 328 applicants must demonstrate:

- Honorable service for at least one year
- If separated, have been separated under honorable conditions
- Must be a lawful permanent resident
- Good moral character (GMC) for 5 years before filing
- Residency and physical presence requirements
- English proficiency test and civics test

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- *Reads from slide.*
- Under INA 328, a person who has served honorably in the U.S. armed forces at any time may be eligible to apply for naturalization. Naturalization under INA 328 is sometimes referred to as “peacetime naturalization.”
- INA 328 applicants must demonstrate:
 - Honorable service for at least one year
 - If separated, have been separated under honorable conditions
 - Must be a lawful permanent resident
 - Good moral character (GMC) for at least five years before filing Form N-400 and up to the time of naturalization
 - Residency and physical presence requirements
 - Knowledge of English and civics.

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INA Section 329



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Honorable Service During Periods of Designated Hostility

INA 329 applicants must demonstrate:

- Honorable service during a designated period of hostility
- If separated, was separated under honorable conditions from qualifying period of service
- Lawfully admitted for permanent residence OR was physically present within the U.S. or another qualifying area at time of enlistment or reenlistment
- No continuous residence or physical presence required
- No minimum age requirement
- Good moral character (GMC) for 1 year
- English proficiency test and civics test

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- INA 329 applicants must demonstrate:
 - Honorable service during a designated period of hostility
 - If separated, have been separated under honorable conditions from a qualifying period of service
 - Lawfully admitted for permanent residence OR was physically present within the United States or another qualifying area at the time of enlistment or reenlistment
 - No continuous residence or physical presence required
 - No minimum age requirement
 - Good moral character (GMC) for at least 1 year before filing Form N-400 and up to the time of naturalization
 - Knowledge of English and civics.
- Please note that the current period of designated hostility is Sept. 11, 2001, to present. This period of designation remains in effect until the president issues an executive order ending the designation or until there is an act of Congress terminating the designated period.
- A full list of past designated periods of hostility is available in the USCIS Naturalization Information for Military Personnel Factsheet:

<https://www.uscis.gov/sites/default/files/document/forms/m-599.pdf>

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Family-based Immigration



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- There are different paths to immigrating to the United States, including family-based.
- Family-based immigration is the path used to petition for a relative.
- To promote family unity, immigration law allows U.S. citizens and lawful permanent residents to petitions on behalf of certain relatives who, upon approval, may apply for:
 - immigrant visas to come to and live permanently in the United States; or
 - adjustment of status to that of a lawful permanent residents (LPRs) if they are present in the United States.

- Now we will discuss how veterans can help a family member to immigrate to the United States, once they are a U.S. citizen or Green Card holder (lawful permanent resident (LPR)).
- There are different paths to immigrating to the United States.
- When a U.S. citizen of the United States petitions for a relative, this is referred to as the family-based path to immigration.
- To promote family unity, immigration law allows U.S. citizens and lawful permanent residents to file petitions on behalf of certain family members, who may apply for:
 - obtain immigrant visas to come and live permanently in the United States; or
 - status to that of a LPRs if they are currently present in the United States.

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Petitioning for Relatives



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U.S. citizens may file immigrant petitions on behalf of ...

Immediate Relatives (Immigrant Visa Immediately Available)

1. Spouse (husband/wife)
2. Children (unmarried and under 21)
3. Parents (if petitioner is 21 years of age or older)

Preference Relatives

1. Unmarried Sons/Daughters (21 years of age or older)
2. Married Sons/Daughters of a U.S. citizen and their spouses and children
3. Brothers/sisters (if petitioner is 21 years of age or older) and their spouses and children

LPR (Green Card holders) may file immigrant petitions on behalf of...

Preference Relatives

1. Spouse (husband/wife)
2. Children (unmarried and under 21 years of age)
3. Unmarried Sons/Daughters (21 years of age or older)

See the Visa Bulletin at www.travel.state.gov for more information.

- To petition for a relative, a U.S. citizen or LPR must generally file Form I-130, Petition for Alien Relative. They can file this form at any time to establish their familial relationship.
- If the petitioner is a U.S. citizen, a visa is immediately available for spouses, children, and parents. This means the relative does not have to wait to apply for an immigrant visa or adjustment of status once the immigrant petition is approved. If the beneficiary is an immediate relative and is present in the United States, the beneficiary may file Form I-485, Application to Register Permanent Residence or Adjust Status, concurrently with the petitioner's Form I-130.
- Certain categories of relatives of U.S. citizens have to wait for a visa to become available before they can apply for an immigrant visa or adjustment of status. This includes unmarried sons and daughters, married sons or daughters, and brothers and sisters.
- If the petitioner is an LPR, the categories of relatives for which they can petition is smaller and they must wait for immigrant visas to become available to file for an immigrant visa or adjustment of status. There are no immediately available visas for beneficiaries of LPR petitioners.
- To find out when visas become available in the Preference category, see the Department of State's Visa Bulletin. It is updated every month.

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Military Parole in Place



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- Parole in place allows noncitizens who came to the United States without admission to remain in the United States for a temporary period.
- Parole in place is a discretionary benefit granted to applicants for admission on a case-by-case basis for urgent humanitarian reasons or significant public benefit under section 212(d)(5)(A) of the INA.
- You may be eligible for military parole in place, in 1-year increments, if you are one of the following service members, or are the spouse, widow(er), parent, son, or daughter of one of the following service members:
 - Active-duty member of the U.S. armed forces;
 - Individual in the Selected Reserve of the Ready Reserve; or
 - Individual who (whether still living or deceased) previously served on active duty or in the Selected Reserve of the Ready Reserve and was not dishonorably discharged.

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- We recognize the important sacrifices made by U.S. service members, veterans, enlistees, and their families.
- To support these individuals, we provide discretionary options such as parole in place and deferred action on a case-by-case basis.
- Parole in place allows applicants for admission, i.e. noncitizens present in the United States without admission
- We may grant parole in place on a case-by-case basis for urgent humanitarian reasons or significant public benefit under section 212(d)(5)(A) of the INA. Noncitizens may be eligible for parole in place in 1-year increments if they are one of the following service members, or are the spouse, widow(er), parent, son, or daughter of one of the following service members:
 - Active-duty member of the U.S. armed forces;
 - Individual in the Selected Reserve of the Ready Reserve; or
 - Individual who (whether still living or deceased) previously served on active duty or in the Selected Reserve of the Ready Reserve and was not dishonorably discharged.
 - Parole in place may be granted only to individuals who are present without admission and are therefore applicants for admission.
- Noncitizens who request military parole in place must demonstrate urgent

humanitarian reasons or significant public benefit, as well as that they warrant a favorable exercise of discretion.

- Noncitizens who have obtained parole in place are eligible to apply for employment authorization for the period of parole. See 8 CFR 274a.12(c)(11); ~~(14)~~. See Form I-765, Application for Employment Authorization.
- Parole terminates automatically upon the expiration of the authorized parole period or upon the parolee's departure from the United States. Parole also may be terminated upon written notice to the noncitizen if USCIS determines the purpose for which the parole was authorized has been accomplished or if USCIS determines that neither humanitarian reasons nor public benefit warrant the continued presence of the parolee in the United States.
- If an individual was admitted to the U.S. lawfully but is present in the U.S. beyond the period of stay authorized), they are not eligible for parole in place because they are not an applicant for admission.
- However, the individual may qualify for deferred action. We will review deferred action in the next slide.
- For more information on eligibility requirements and how to request military parole in place, review the USCIS Policy Manual, Volume 3 Part F, [Part F - Parolees | USCIS](#), which links to the Adjudicator's Field Manual content on military parole in place or visit the USCIS Discretionary Options for Military Members, Enlistees and Their Families webpage: <https://www.uscis.gov/military/discretionary-options-for-military-members-enlistees-and-their-families>

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Military Deferred Action



- Deferred action is a form of prosecutorial discretion to defer removal action (deportation) against an individual for a certain period of time.
- Deferred action does not give you lawful status and does not excuse any past or future periods of unlawful presence.
- You may be eligible for military deferred action for up to two years if you are the spouse, widow(er), parent, son or daughter of an:
 - Active-duty member of the U.S. armed forces;
 - Individual in the Selected Reserve of the Ready Reserve; or
 - Individual who (whether still living or deceased) previously served on active duty or in the Selected Reserve of the Ready Reserve and was not dishonorably discharged.
- DHS can terminate deferred action at any time, at its discretion.

- Deferred action is a form of prosecutorial discretion to defer removal action (deportation) against an individual for a certain period of time.
- If we grant an individual deferred action, the Department of Homeland Security (DHS) considers that person to be lawfully present in the U.S. for the period deferred action is in effect. Deferred action does not give lawful status and does not excuse any past or future periods of unlawful presence.
- A person may be eligible for deferred action for up to two years if they are the spouse, widow(er), parent, son or daughter of an:
 - Active-duty member of the U.S. armed forces;
 - Individual in the Selected Reserve of the Ready Reserve; or
 - Individual who (whether still living or deceased) previously served on active duty or in the Selected Reserve of the Ready Reserve and was not dishonorably discharged.
- Noncitizens who request military deferred action must demonstrate that they warrant a favorable exercise of discretion.

- DHS can terminate deferred action at any time, at its discretion.
- Noncitizens who have been granted military deferred action are eligible to apply for employment authorization for the period of deferred action; they must demonstrate economic necessity. See 8 CFR 274a.12(c)(14). See Form I-765, Application for Employment Authorization.
- For more information on eligibility requirements and how to request military deferred action review the USCIS Policy Manual, Volume 3 Part H, [Part H - Deferred Action | USCIS](#), which links to the content in the Adjudicator's Field Manual or visit the USCIS Discretionary Options for Military Members, Enlistees and Their Families webpage: <https://www.uscis.gov/military/discretionary-options-for-military-members-enlistees-and-their-families>

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Helpful Resources and Contacts



U.S. Citizenship
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Military Naturalization page:

<https://www.uscis.gov/military/naturalization-through-military-service>

Military Helpline (877-CIS-4MIL):

Immigration-related support, including:

- Check the status of the Form N-400
- Notify us of a new mailing address/duty station
- Submit an application for expedited processing of a military N-400

<https://www.uscis.gov/military/military-help-line>

Military Naturalization Factsheet:

<https://www.uscis.gov/sites/default/files/document/forms/m-599.pdf>

Forms Page:

For information on Form N-400

<https://www.uscis.gov/forms>

File Online:

To create a USCIS online account or file an application online, please visit:

uscis.gov/file-online

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- Here are some helpful resources and links.
- For more information on the naturalization process through military service, visit our **military naturalization page**: <https://www.uscis.gov/military/naturalization-through-military-service>
- USCIS has a toll-free **military helpline**, 877-CIS-4MIL (877-247-4645) exclusively for current members of the military and their families, as well as veterans. Our representatives are available to answer calls Monday through Friday from 8 a.m. to 6 p.m. Eastern, excluding federal holidays.
- The help line is available to assist with immigration-related information, such as:
 - Checking the status of your Form N-400, Application for Naturalization;
 - Submitting an application for expedited processing of military N-400; and
 - Notifying us of a new mailing address.
- A concise overview the information provided in this presentation is also available in the form of a **Military Naturalization Factsheet**:
<https://www.uscis.gov/sites/default/files/document/forms/m-599.pdf>
- Visit our **Forms Page** for more information on the N-400 application:
<https://www.uscis.gov/forms>
- For more information about creating a **USCIS online account or filing an application online**, please visit: uscis.gov/file-online

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