

AILA Naturalization Online Course

This intermediate course provides thorough, practical information to immigration practitioners who are new to naturalization practice or who want to delve deeper into this important area of immigration law. The course faculty will identify the factors that must be considered before filing for naturalization, including whether the person is already a U.S. citizen (USC). They also will discuss the requirements for naturalization, what to expect at the naturalization interview, and available options if something goes wrong.

Module 1: Preparing to File

This module provides a brief overview of the legal concepts used in the field of citizenship and naturalization. It then explores how, other than naturalization, foreign nationals can become USCs.

Module Outline:

- **Video:** Introduction to citizenship terms and definitions
 - Differences between a citizen and a foreign national
 - Rights and protections of USCs
 - Is citizenship a choice?
 - Being a citizen vs. being documented as a citizen
 - Right to denaturalize
 - Citizenship obligations
 - Defining “child” for citizenship provisions
 - Why is this definition of child different than for immigration purposes?
 - Citation to the law: INA §101(b) vs. §101(c)
 - Is everyone born in the United States a USC?
 - N-400 strategy considerations
- **Video:** Citizenship by descent: INA §301
 - Is your client already a citizen?
 - Questions to determine citizenship
 - Supporting documents
 - Public records and other sources
- **Document:** Checklist of questions to determine if your client is already a citizen
- **Video:** Automatic acquisition after birth: INA §320 and prior law INA §321
 - Present law: Child Citizenship Act of 2000
 - Past law: INA §321
- **Document:** Child Citizen Act of 2000 quick reference guide
- **Document:** Copy of INA §321
- **Video:** Other ways U.S. citizenship is bestowed
 - Retroactive changes to the law
 - Naturalization of groups of people
 - Honorary citizenship bestowed by Congress
 - Retroactive changes to the law affecting loss of citizenship
 - Multiple citizenships
- **Document:** Winston Churchill: a case example
- **Video:** Naturalization for children
 - International adoption process
 - Hague country requirements
 - Non-Hague country requirements

- Effective date and prior requirements for adoptees
 - The difference between orphans and consensual simple adoptions
- **Reading:** “Immigrating Adopted Children Under Hague Convention Rules,” *Immigration Law and the Family* 6th ed. (2020) pp 40-43.
- **Video:** Naturalization of children residing overseas
 - INA §322
 - Basic requirements
 - Grandparent provisions
 - Current U.S. Department of State (DOS) interpretation on residence for INA §322
 - U.S. Citizenship and Immigration Services (USCIS) residence memo for transition of citizenship
- **Document:** Checklist of requirements: INA §322
- **Video:** Which form to complete and where to file: current USCIs
 - N-600 vs. N-600K
 - Passport application: pros and cons
- **Document:** Sample cover letter for passport agency
- **Exercise:** Completing the N-600K parent and grandparent sections
- **Video:** Other considerations before filing for naturalization
 - Derivative children
 - Interaction with other laws
 - Ethical considerations before filing
- **Reading:** Kathrin S. Mautino, “Acquisition of Citizenship: Tips, Tricks, and Issues,” *Immigration Practice Pointers*, (AILA 2022–23 Ed.)
- **Hypothetical**
- **Resource List**

Module Faculty

Kathrin S. Mautino (ML), Naturalization Online Course Committee Chair/Military Committee, San Diego, CA

Jamila Little, Naturalization Online Course Committee, Brandon, FL

Tiffany E. Markee, San Diego, CA

Kathia I. Quiros Medina, Las Vegas, NV

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Module 2: Reviewing Eligibility and Filing the Application

This module identifies the legal standards and requirements that must be satisfied to qualify for naturalization. The module will serve as a useful introduction to the topic and as a preparatory checklist and guidance for the practitioner in addressing general rules and exceptions to the basic requirements.

Module Outline:

- **Video:** Basic requirements
 - Lawful permanent resident (LPR) status
 - Issues related to initial grant of LPR status
 - Residency requirements and issues
 - Commuter residents
 - Trips over six months
 - Absences of one year or more

- Preserving residence for naturalization purposes: I-131 vs. N-565
 - Good moral character (GMC)
 - Period of required GMC
 - Actions outside the period of GMC
 - Non-criminal acts affecting GMC
 - English language requirements
 - Failure to disclose on prior application and/or N-400
- **Document:** Forensics roadmap
- **Video:** Exceptions to the requirements
 - Military service
 - Periods of designated conflicts
 - Honorable military service waivers
 - Overseas employment with U.S. government-related jobs
 - 50/20 and 55/15 rules
 - Medical issues
 - Requirements for medical waivers: N-648
 - Mental competency requirements
- **Video:** Good Moral Character
 - Permanent bars versus temporary bars
 - Crimes
 - Aggravated felonies and effective dates
 - Crimes involving moral turpitude (CIMTs)
 - Other crimes
 - Misdemeanors
 - Domestic violence
 - Chronic traffic tickets and other infractions
 - Non-criminal issues
- **Reading:** Kari Ann Fonte, Allen E. Kaye and Kathleen M. Vannucci, “Naturalization: To File or Not to File,” *Immigration Practice Pointers*, (AILA 2019–20 Ed.)
- **Video:** Residency: common issues and problems
 - Residence versus physical presence
 - When does the three-month (in state) residence requirement apply?
 - Rules for filing early
 - U visa, marriage to a USC, asylum, and other shortened periods for naturalization
- **Exercise:** Discovery of criminal issues and absences
- **Video:** Registering for the draft and voting: risk analysis and options
 - Failing to register for the draft
 - Defining “knowingly”
 - Waiting to age 31
 - Voting and registering to vote
 - Risk of false claim to U.S. citizenship
 - Risk of removal
- **Video:** Preparing to file: documents
 - Criminal documents
 - Proof of residence
 - Payment of taxes
- **Reading:** updated by K. Mautino and C. Popp, “The Naturalization Process and Requirements,” *Navigating the Fundamentals of Immigration Law*, (AILA 2022–23 Ed.)
- **Hypothetical**
- **Resource List**

Module Faculty

Petula Natasha McShiras, AILA Board of Governors, Greenwood Village, CO

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Sarah B. Pitney, Lawyer Well-Being Committee /USCIS Field Operations Liaison Committee, Washington, D.C.

Module 3: The Interview, Appeal, and Federal Court Review

This module provides information on preparing and representing your client at the naturalization interview, options for advancing N-400 cases when there are delayed adjudications pre- and post-interview, and legal options available if the case is denied.

Module Outline:

- **Video:** What to expect at the interview
 - Prepping the client and mock interview
 - Right to counsel and attorney participation in the interview process
 - Strategies and practical tips
 - In-person and telephonic appearances
 - Dual I-751/N-400 interviews: what to expect
 - Right to review and correct the record and N-400 as filed
 - Inconsistencies and what to do if your client changes their story
 - Failures in the English or civics portion of the test
 - Statutory requirement of USCIS decisions
 - If a grant is recommended, what happens next?
 - What if something happens between interview and swearing-in?
 - Can client travel before oath ceremony?
 - Requirement to travel on U.S. passport once applicant is a USC
- **Document:** Naturalization interview checklist
- **Reading:** A. Ciesielski, “Navigating the Ethical Representation of a Client who Engaged in Marriage Fraud” (Jul. 26, 2022), AILA Doc. No. 22072634.
- **Reading:** USCIS Fact Sheet and Updates, “USCIS Celebrates Citizenship Day 2022” (Sep. 16, 2022), AILA Doc. No. 22091654.
- **Video:** What to expect if the application is denied
 - Right to an explanation of the reasons for the denial
 - Denial without prejudice, ability to immediately refile or file in future when GMC can be established in statutory period
 - May just remain LPR unless other factors present
 - Potential referral to the Executive Office for Immigration Review (EOIR)
- **Video:** Filing form N-336 post denial with USCIS
 - Filing deadlines for the N-336, request for hearing on decision
 - What should you include in the N-336?
 - When to expect the reinterview and who will conduct it
 - Attorney preparation of applicant before rehearing, attorney participation in the N-336 hearing
 - Period of time for USCIS to issue a final decision
- **Exercise:** Brief in support of N-336
- **Video:** Seeking relief in federal court
 - Delays

- What can you do if USCIS has not scheduled your client for an interview?
 - 8 USC §1447(b): statutory right to seek federal judicial review after 120 days after the “examination,” not filing
 - Denial
 - Seeking judicial review after USCIS denies N-336
 - The complaint and life of case in federal court
 - High-level tips on drafting a complaint
 - Where additional AILA resources can be found
 - Educate yourself on court’s rules and seeking a mentor
 - What happens after you file?
 - Challenging a delay v. denial
 - Can USCIS regain jurisdiction by reopening the N-400?
 - Working with the assistant U.S. attorney (AUSA) who represents USCIS in federal court
 - What is the difference between a district court judge and magistrate judge?
 - A quick note on Equal Access to Justice Act (EAJA) fees
- **Video:** Final considerations
 - Naturalization granted due to fraud/misrepresentation is always at risk of being revoked: no statute of limitations
 - Beware of plea agreements admitting to actions before date of naturalization
 - Derivative beneficiaries may also have their status revoked if principal’s naturalization is revoked
 - USCIs do not need to maintain a residence in the United States to keep their USC status
 - USCIs can participate fully in U.S. society
 - Voting, serving on a jury, holding most elective offices, eligibility for benefits reserved for USCIs, and petitioning additional family (parents and siblings)
- **Hypothetical**
- **Resource List**

Module Faculty:

Lauren McClure (ML), Distance Learning Committee, Chicago, IL

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