



U.S. Citizenship: Acquisition, Derivation and Naturalization E-learning Course

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Citizenship Course Outline

- **May 6-13:** Acquisition and Derivation
- **May 14-20:** Naturalization Requirements
Part 1: Residence, Civics & English
- **May 21-27:** Naturalization Requirements
Part 2: Deportability & Good Moral Character
- **May 28-June 4:** Naturalization Process

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How Course Works

- Overall structure
- Reading
- Exercises & Quizzes
- Question Corner
- Webinars
- Course Completion Requirements
- Jon Braswell E-learning Facilitator–
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Nationality Laws and Regs

- Immigration and Nationality Act (INA) – Title III
- INA Sections 301 through 361
- 8 Code of Federal Regulations – 8 CFR
- 8 CFR Sections 301 through 349, 392, 499

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OVERVIEW OF CITIZENSHIP

- **Automatically a citizen:**
 - 1. Birth -- INA §301(a) & (b) & 14th Amend.
 - 2. Acquisition -- INA §§301 & 309
 - 3. Derivation -- INA §320
- **Apply to become a citizen:**
 - Naturalization -- §§101(a)(23) & 316 & 322

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Citizenship by Birth in U.S.

- Birth in one of 50 states (not to a diplomat)
- Birth in a territory (Puerto Rico, Guam, Virgin Islands)
- For some, birth in Panama, Canal Zone, Northern Mariana Islands

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“National”

- Birth in American Samoa, Swains Island



- INA §§101(a)(22), 101(a)(29), 308.

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Acquisition and Derivation

- Acquisition of Citizenship
 - Factors in acquisition
 - Current law on acquisition
 - Acquisition law from 1952 to November 1986
- Derivation of Citizenship
 - Factors in derivation
 - Last act
 - Law on or after February 27, 2001
 - Law from 1978 to February 27, 2001

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Acquisition and Derivation

- Acquisition = at birth outside U.S.
- Derivation = event after birth confers citizenship

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FACTORS IN ACQUISITION

- Was one or both parents a USC?
- Was either parent a U.S. national?
- Was your client born in wedlock?
- If not, was your client legitimated?
- Did USC parent ever reside in the U.S.?
- If so, for how long and at what ages?

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Born in Wedlock (Chart A)

- Before noon May 24, 1934
- Noon May 24, 1934 to January 13, 1941
- January 14, 1941 to December 23, 1952
- December 24, 1952 to November 13, 1986
- On or After November 14, 1986

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Acquisition if born on/after 11/14/86 (born in wedlock) – INA §§ 301, 309

- **Two USC Parents:**
 - One parent must have resided in U.S. or possessions at any time before child's birth
- **One USC Parent and One National Parent:**
 - USC parent must have been physically present in U.S. for one continuous year before child born
- **One USC Parent:**
 - Citizen parent must have been physically present in U.S. for five years before child's birth. At least two of five years must be after age 14.

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Is Ivan a U.S. Citizen?

- In 1970, at the age of 10, Natasha immigrated to the U.S. with her parents from Russia. While in the U.S., Natasha became a naturalized U.S. citizen. Unable to find a suitable husband in the U.S., Natasha returned to Russia in 1985. Back in Moscow, Natasha met Alexander, fell in love and married. In 1995, in Moscow, Natasha gave birth to a son named Ivan. Is Ivan a U.S. citizen?

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In Wedlock: 12/25/52 – 11/14/86

- **Two Citizen Parents:**

- One parent must have resided in U.S. before child's birth

- **1 USC, 1 National Parent:**

- Citizen parent must have been physically present in U.S. for 1 continuous year before child was born



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In Wedlock: 1 USC Parent

Citizen parent must have been physically present in U.S. for ten years before child's birth. At least five years must be after age 14.



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Are Conrad & Stephanie USCs?

- Wolfgang and Monica, a married couple, came to the U.S. from Switzerland in 1946, at age 20, and became U.S. citizens in 1951. On February 3, 1952, their daughter, Bettina, was born. The family returned to Switzerland in August 1955. In June of 1971, Bettina returned to the U.S. to study for 2 years. She returned to Switzerland in June 1973 and soon thereafter married Gerhard. Bettina and Gerhard have 2 children, Conrad, born August 11, 1983, and Stephanie, born November 23, 1988.

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Is Carlos a USC?

- Maria was born in the U.S. in 1926. Her parents were citizens of Mexico. She lived in the U.S. until she was 22 when she decided to move to Mexico City. After a year, she married Jose, a Mexican citizen. Maria and Jose had a son, Carlos, who was born June 17, 1951. Carlos eventually took over the family hamburger business. He has been to the U.S. several times.

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Out of Wedlock (CHART B)

- **For father**, before January 13, 1941
- January 13, 1941 to December 23, 1952
- December 24, 1952 to November 14, 1968
- November 15, 1968 to November 14, 1971
- On or After November 15, 1971
- **For mother**, before or after December 24, 1952

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Out of Wedlock: USC Mother

USC mother must be physically present in U.S. or its possessions for one continuous year before child's birth
– INA §309(c).



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Out-of-Wedlock: USC Father

- **Requirements on/after Nov. 15, 1971:**
- Clear evidence of blood relationship w/ father;
- Father is USC at time of child's birth;
- Father agreed in writing to provide financial support to child up to 18 years of age;

• **AND**

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Out-of-Wedlock: USC Father

- While child is under age 18:
 - Child is legitimated,
 - Father acknowledges paternity in writing under oath, OR
 - Competent court determines paternity of child
- INA §309(a).

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Out-of-Wedlock: USC Father

- Citizen father must meet U.S. residency requirements for appropriate situation:
 - two citizen parents,
 - one citizen parent and one national parent, or
 - one citizen parent and one alien parent



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Is Hank a USC?

- James was born in New York City in 1950. In 1978 his company transferred him to work in London. In 1980 James fathered a child, Hank, with Sarah, a British citizen. In 1982 Sarah and James married. Can Hank claim U.S. citizenship?

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PROOF OF ACQUISITION

- **U.S. Passport**

- Fees – currently \$140 - 95



- **Consular Report of Birth Abroad of U.S. Citizen (FS-240)**

- For child living outside U.S.
 - Must be submitted before child's 18th birthday

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Certificate of Citizenship

- \$600 fee & two photos of applicant
- N-600 form
- Copy of applicant's birth certificate
- Copy of parents' marriage certificate
- Proof of termination of prior marriages
- Copy of birth certificate(s), Certificate of Citizenship, or Certificate of Naturalization for parent(s)
- Evidence of parent's residence/presence in U.S.

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DERIVATION OF CITIZENSHIP (INA §320)

- Concept: Automatic citizenship conferred on **Lawful Permanent Resident** child by virtue of USC status of parent or parents.
- Different from Acquisition : Doesn't happen at birth
- Order in which qualifying events take place irrelevant, as long as they occur **before child turns 18**
- Laws governing derivation have changed several times – may need to refer to old law

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Current Requirements: (on or after 2/27/01)

- Child automatically USC when **all** of following occur:
 - At least one parent USC by birth or natz
 - Child under age 18
 - Child not married
 - Child is LPR
 - Child residing in U.S. in legal and physical custody of USC parent

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Is Eva a USC ?

- Eva was born in Argentina on September 3, 1996. In 2002 Eva and her parents entered US as LPRs based on 4th preference petition filed by her mother's sister. On February 27, 2011, Eva's mother naturalized. Her father is still an LPR. Eva has always lived with her parents in the US.

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How Do We Analyze Eva's Case?

- Eva was born in Argentina on Sept. 3, 1996. In 2002 Eva and her parents entered US as LPRs based on 4th preference petition filed by her mother's sister. On February 27, 2011, Eva's mother naturalized. Her father is still an LPR. Eva has always lived with her parents in the US.
- What do you need to show:
 - 1.
 - 2.
 - 3.
 - 4.
 - 5.



Is Louis a USC ?

- Louis was born in Haiti on January 15, 1993. When he was 2, Louis and his mother entered U.S. as LPRs based on 2B petition filed by his mother's father. Louis' mother was never married to Louis' father. Louis always lived with his mother in US. On November 14, 2010, Louis' mother naturalized. Louis turned 18 years old on January 15, 2011.



WHAT'S YOUR CONCLUSION?

- Louis was LPR since age two.
- Louis's mother naturalized on November 14, 2010 so he has at least one parent who is a USC.
- Louis was under 18 when his mother naturalized.
- Louis derived U.S. citizenship



Definition of “Child” for Derivation – INA § 101 (c)

- Includes:
 - Child legitimated under law of child’s or father’s residence or domicile before child reaches 16 years old, and child is in legal custody of legitimating parent
 - Child adopted under age of 16 (or sibling under 18), and in legal custody of adopting parent (s) (other reqs for adoption must be met)
 - **Does not include step-children**

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What if Louis’ Father Is the USC?

- Different Rule for derivation for child born out of wedlock if USC father
 - Child must be legitimated by father under either law of child’s residence or domicile or law of father’s residence or domicile **and** must take place before age 16.

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What Does it Mean to Have “Legal Custody”?

- 8 CFR § 320.1 – Presumes USC has legal custody absence evidence to contrary in case of:
 - Biological child living with married parents or surviving parent if other deceased
 - Child born out of wedlock who was legitimated and currently resides with natural parent
 - Adopted child when final adoption decree

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What Does it Mean to Have “Legal Custody”?

- If parents divorced or legally separated: award of primary care, control and maintenance by court or other appropriate government entity according to laws of state or country of residence
- May be other factual circumstances under which Service will find USC parent to have legal custody

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Is Gabriella a USC?

- Gabriella was born in Dominican Republic on August 11, 1995. In 2004 her parents divorced and her mother Luisa was granted primary legal custody. On September 1, 2006, Gabriella’s mother married USC Joe. Joe filed relative petitions for Luisa and Gabriella and they were admitted to U.S. as LPRs on October 1, 2008.
- Did Gabriella derive US citizenship through Joe?
- On August 10, 2013, Luisa became a naturalized U.S. citizen. Can Gabriella claim U.S. citizenship?

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Is George a USC?

- George was born in China on May 5, 1987. In 1990, George and his parents adjusted status. In 1998, George’s father naturalized but his mother remained an LPR. George lived with both of his parents.
- Is George a USC?

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REQUIREMENTS FOR DERIVATION OF CITIZENSHIP FROM 10/5/78 TO 2/27/01?

- Child became citizen when:
 - Both parents naturalized, or
 - If one parent naturalized, other must have been citizen at time child was born, or deceased, or parents legally separated and citizen parent had legal custody
 - Child under age 18
 - Child not married
 - Child is LPR

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IS SOPHIA A U.S. CITIZEN?

- Sophia was born in Italy on September 21, 1982. She immigrated to U.S. on June 17, 1992 based on 2A relative petition filed by her LPR father. Sophia's mother also immigrated at that time. On May 1, 1998, Sophia's father became a USC. Sophia's mother is still an LPR. Is Sophia a USC?

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PROOF OF DERIVATION

- U.S. Passport
- Certificate of Citizenship
 - File N-600 and supporting documentation

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Work For Week Two

- Reading on Naturalization Requirements: Residence and Physical Presence; English and Civics and Disability Waiver
 - Exercises
 - Quiz
 - Question Corner
- Questions? Problems? Let us know!!!

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Work for Week Two

HAVE FUN!
SEE YOU NEXT WEEK!



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Questions?



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