

8 CFR 316.12

This document is current through the April 15, 2020 issue of the Federal Register with the exception of the amendment appearing at 85 FR 20873. Title 3 is current through April 3, 2020.

Code of Federal Regulations > TITLE 8 -- ALIENS AND NATIONALITY > CHAPTER I -- DEPARTMENT OF HOMELAND SECURITY (IMMIGRATION AND NATURALIZATION) > SUBCHAPTER C -- NATIONALITY REGULATIONS > PART 316 -- GENERAL REQUIREMENTS FOR NATURALIZATION

§ 316.12 Applicant's legal incompetency during statutory period.

(a)General. An applicant who is legally competent at the time of the examination on the naturalization application and of the administration of the oath of allegiance may be admitted to citizenship, provided that the applicant fully understands the purpose and responsibilities of the naturalization procedures.

(b)Legal incompetence. Naturalization is not precluded if, during part of the statutory period, the applicant was legally incompetent or confined to a mental institution.

(1)There is a presumption that the applicant's good moral character, attachment, and favorable disposition which existed prior to the period of legal incompetency continued through that period. The Service may, however, consider an applicant's actions during a period of legal incompetence, as evidence tending to rebut this presumption.

(2)If the applicant has been declared legally incompetent, the applicant has the burden of establishing that legal competency has been restored. The applicant shall submit legal and medical evidence to determine and establish the claim of legal competency.

(3)The applicant shall bear the burden of establishing that any crimes committed, regardless of whether the applicant was convicted, occurred while the applicant was declared legally incompetent.

Statutory Authority

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:

[8 U.S.C. 1103](#), [1181](#), [1182](#), [1443](#), [1447](#); [8 CFR part 2](#).

History

[[56 FR 50484](#), Oct. 7, 1991, as confirmed at 60 FR 6650, Feb. 3, 1995]

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