



ARE YOU A UNITED STATES CITIZEN?

WARNING: This booklet provides general information about immigration law and does not cover individual cases. Immigration law changes often, and you should try to consult with an immigration attorney or legal agency to get the most recent information. Also, you can represent yourself in immigration proceedings, but it is always better to get help from a lawyer or legal agency if possible.

NOTE: As of March 1, 2003, The Immigration and Naturalization Service (INS) is now part of the Department of Homeland Security (DHS). Immigration enforcement functions, including immigration detention and removal cases, are handled by the **Bureau of Immigration and Customs Enforcement (BICE)** within the Department's Border and Transportation Security Directorate. The **Bureau of Citizenship and Immigration Services (BCIS)** will handle other immigration matters, including citizenship, asylum and refugee services.

- **GENERAL INFORMATION**

- **Who wrote this booklet?**

This booklet was prepared by the Florence Immigrant and Refugee Rights Project, a non-profit law office that supports human and civil rights. The money to pay for this booklet came from the Ford Foundation.

This booklet was not prepared by DHS, nor by any other part of the United States government. The booklet contains information and advice based on the Florence Project's many years of experience assisting people in immigration detention. Immigration law, unfortunately, is not always clear, and our understanding of the law may not always be the same as DHS's viewpoint. We believe that the information is correct and helpful, but the fact that this booklet is made available in the libraries of detention centers for the use of detainees does not mean that DHS or any other branch of the U.S. government agrees with what it says.

- **Who was this booklet written for?**

This booklet is for individuals who are in the custody of DHS and who have been placed in **removal, exclusion, deportation or other immigration proceedings**. If you are in **expedited removal, reinstatement of removal or administrative removal proceedings**, this booklet will help you understand whether you have a claim to U.S. citizenship, but to understand the proceedings you are in, you should also read the

materials called ***“What To Do If You Are In Expedited Removal Or Reinstatement Of Removal.”***

You can tell what type of proceedings you are in by the document you should have received from DHS. Each type of proceeding has a different document, but they all explain the reasons why you may be removed from the United States.

- * If you received a document called a **"Notice to Appear"** then you are in **removal** proceedings.
- * If you received a document called an **"Order to Show Cause"** then you are in **deportation** proceedings.
- * If you received a document which is numbered at the bottom, **"Form I-122"** then you are in **exclusion** proceedings.
- * If DHS says that you were arrested trying to enter the United States at a border checkpoint, international airport, or at sea, and you received **Form M-444**, then you are in **Expedited Removal** proceedings.
- * If DHS says that you entered the United States illegally after having been deported or removed and you received a **"Notice of Intent/Decision to Reinstate Prior Order,"** then you are in **Reinstatement of Removal** proceedings.
- * If DHS says that you have been convicted of an aggravated felony and you do not have legal permanent residence in the United States, and you received **Form I-851**, then you are in **Administrative Removal** proceedings.

- **Who is a U.S. citizen?**

There are several ways that you may be a citizen of the United States.

- You are probably a U.S. citizen if you were born in the United States or one of its possessions or you were a legal permanent resident who became a naturalized U.S. citizen.
- You may be a U.S. citizen if one of your parents or grandparents was born in the United States or one of its possessions, OR if one or both of your parents was a U.S. citizen at the time of your birth.
- You may be a U.S. citizen if one or both of your parents became a naturalized U.S. citizen before your 18th birthday.

We will explain each of these possible ways to be a U.S. citizen in more detail later in this booklet. If you can answer yes to any of the questions on the following page, you may be a U.S. citizen.

You may be a U.S. citizen if you answer yes to any of the following questions:

- **Were you born in the U.S.?**
- **Were you a legal permanent resident who became a naturalized U.S. citizen?**
- **Did your mother or father become a naturalized U.S. citizen before you turned 18?**
- **Was your mother or father born in the U.S.?**
- **Was your grandmother or grandfather born in the U.S.?**
- **Was your mother or father a U.S. citizen at the time you were born?**

- **What immigration rights does a U.S. citizen have?**

If you establish that you are a U.S. citizen, you cannot be detained by DHS or deported/removed from the U.S. regardless of your criminal history. If you are a U.S. citizen, it is the best way to avoid deportation or removal from the United States because once you prove you are a U.S. citizen, DHS does not have the right to detain you or remove you from the U.S. ever.

**If you are a U.S. citizen,
DHS can never detain or remove you from the United States!**

You have other rights as a U.S. citizen. For example, you have the right to vote and you have the privilege of receiving government benefits.

- **How do I use this booklet?**

First, read the whole booklet through to decide whether you qualify for U.S. citizenship, and to learn what you need to do to prove your claim. It is up to YOU to get together the papers that you need and to prepare yourself to talk to the Immigration Judge or DHS. If you do not prepare your claim well, you will probably lose.

This booklet has sample legal forms you will need to give the Court and discusses the kinds of proof you will need to get and how to get them. Prepare carefully, and you will be ready to present your case.

- **Can I fight my citizenship case outside of detention?**

If you are in removal or deportation proceedings and are being detained by DHS, you may have the right to ask the Immigration Judge to lower your bond. A bond is money you pay to DHS to get out of custody while you are fighting your case. DHS will return the money to you after your case is finished as long as you go to all your court hearings and interviews and you leave the country if that is what the judge orders. If you have a very strong case and strong family or community ties in the United States, the judge may decide to let you out of custody without making you pay any money, based only on your promise to attend all your hearings. This is called being released “on your own recognizance.”

If you have committed certain types of crimes, you will not be eligible for a bond or for release from detention. To find out whether you are eligible for a bond, how to apply for a bond hearing and how to prepare for a bond hearing, you should read another booklet called “*All About Bonds.*”

If you were arrested by DHS while trying to enter the U.S. from the sea or at an airport or border crossing station, you may not qualify under the law to ask the Immigration Judge to set a bond for you or to release you on your “own recognizance,” but you may qualify to ask DHS to do this. If you have certain types of criminal convictions, however, you will not be eligible for release. For more information, read the booklet called “*How to Apply to Department of Homeland Security for Release from Immigration Custody.*”

If you are in deportation, removal or exclusion proceedings and you do get out of detention on bond or on your own recognizance, you are still required to go to court to continue with your case. If you get out of detention but do not show up in court when you are supposed to, the judge will order you removed. Later on, we explain what to do if you get out of detention.

- **What if I cannot take being in detention any more? Can't I just accept removal or deportation and make a claim to U.S. citizenship when I am out?**

Being in detention for a long time is difficult and frustrating. If you do not have a bond or cannot afford to pay your bond, you may want to just give up and accept removal or deportation or ask for voluntary departure so that you can get out of custody.

If you leave the U.S. under an order of removal or voluntary departure, you can still present your claim for U.S. citizenship to the U.S. State Department from outside the United States, but it may be difficult to prepare your case from outside the country. In some cases, you might be able to apply for an identity card at the U.S. consulate in your country in order to travel to the United States and seek admission. However, at the port of entry, you would probably be put into immigration proceedings again. If you do not win your claim to citizenship, it will be difficult and in some cases impossible to ever return to the United States legally.


And, if you are thinking about coming back to the United States in the future, accepting deportation or removal may be a mistake. If you return to the United States illegally, you will not have permission to work, you will not have any legal status in the U.S., and you will always run the risk of being caught by DHS. If you are caught, you can be charged with the federal crime of returning illegally after an order of removal. This is a felony for which you can be put in prison. If you have a criminal history, in some cases, the law says you can go to prison for up to 20 years for coming back to the U.S. illegally! Read this entire booklet before you make the decision whether to present your claim to U.S. citizenship now.

You could be put in prison if you return to the U.S. illegally after being ordered removed or deported from this country!

- **If I make a claim for U.S. citizenship, can I or should I apply for any other relief from removal?**

It is usually a good idea to apply for (or raise) every possible defense you may have to being deported or removed from the United States. You may think you have a great case for citizenship, but you could be wrong. You might lose your citizenship case, but win another type of relief from removal. So try to find out what else you may qualify for. For those in removal proceedings, there should be booklets available in your detention center on the other possible forms of “relief” from removal.

- If you are a **legal permanent resident**, you should read the booklet called, ***“How to Apply for Cancellation of Removal for Certain Legal Permanent Residents.”***
- If **you are afraid** that you will be harmed or tortured if you return to your country, you should read the booklet entitled, ***“How to Apply for Asylum and Withholding of Removal.”***
- If **you have lived in the United States for 10 years or more** and do not have a serious criminal history, you should read the booklet called, ***“How to Apply for Three or Ten Year Cancellation of Removal.”***
- If **you have lived in the United States for 3 years or more** and you have been **physically or psychologically abused** by a legal permanent resident or U.S. citizen spouse or parent, you should read the booklet called, ***“How to Apply for Three or Ten Year Cancellation of Removal.”***
- If **you are from Cuba, Nicaragua, El Salvador, Guatemala, Eastern Europe or Haiti**, you might qualify for relief under a new law called NACARA or a special law for Haitians called the Haitian Refugee Immigration Fairness Act. Both the booklets on Asylum and Three and Ten Year Cancellation discuss these possibilities.
- If **you have a child over 21 years old or a spouse or parent who is a U.S. citizen or legal permanent resident** or if **you have a pending visa petition through a family member**, you should read the booklet called ***“How to Get Legal Status Through Your Family Member—Now or in the Future.”***

If you qualify,  you should present your claim to U.S. citizenship and apply for any other form of relief from removal that you may have!

• **WHAT ARE THE REQUIREMENTS TO QUALIFY FOR U.S. CITIZENSHIP?**

As we mentioned earlier, there are **several ways** that you might qualify to be a U.S. citizen:

1. by your **birth in the U.S.** or one of its possessions;
2. by your **naturalization**;
3. by the **naturalization of one or both of your parents**;
4. by the **birth of your parents or grandparents in the U.S.** or one of its possessions; or
5. by your **birth to a U.S. citizen parent or parents.**

Before we explain each way in detail, you should know what we mean by **the term “parents.”** You may have been adopted or you may have a stepparent who never formally adopted you. In this booklet, when we use the terms parent, parents, mother or father, we mean your **biological parent.** If you have a U.S. citizen parent who adopted you or who is your stepparent, it is usually more difficult, and in some cases impossible, to make a claim for U.S. citizenship through that parent. In each type of claim to U.S. citizenship, we will discuss whether you can make a claim through any other type of parent besides your natural or biological parents.

U.S. CITIZENSHIP BY YOUR OWN BIRTH

• **Who is a U.S. citizen at birth?**

You are a U.S. citizen if you were born:

1. **in one of the 50 United States** (unless your parent is a certain type of foreign diplomat)

OR

2. in one of the **following United States’ areas considered to be part of the United States** after the following dates:

- Puerto Rico after January 13, 1941

- Virgin Islands after January 13, 1941
- Guam after December 24, 1952
- Northern Mariana Islands after November 4, 1988

If you were born in one of the above possessions before the dates listed, you might still be a U.S. citizen. The law in this area is very complicated, and we do not have space to describe it here. You should check with a lawyer if possible, and tell the Immigration Judge and/or Immigration Service that you think you might be a U.S. citizen.

You may be a U.S. citizen if you were born:

1. **On a ship or vessel while at a U.S. port or within a U.S. harbor, bay or enclosed arm of the sea along the U.S. coast;**
2. Within 3 or 12 miles of the U.S. in U.S. territorial waters (DHS may argue only people born within 3 miles are U.S. citizens. If you were born in more than 3 but less than 12 miles of U.S. territorial waters, tell DHS or the Judge about Presidential Proclamation 5928 of December 27, 1988);
OR
3. Within U.S. territorial air space.

However, if you were born on a foreign public vessel such as a warship or warplane, you do not qualify.

There is another category of persons who cannot be deported. They are not U.S. citizens but are U.S. nationals. You are a **U.S. national** if you were born in:

American Samoa or the Swains Islands

• **How do I prove that I am a U.S. citizen or national by birth?**

You can prove you are a U.S. citizen by birth in the United States or one of its possessions with a certified copy of **your birth certificate**.

If you do not have a birth certificate because you were not born in a hospital and your birth was not registered, you should try to get the following types of proof of your birth:

1. baptismal certificate;
2. certification of your birth by the doctor who attended the birth; **and/or**
3. affidavit from someone who attended your birth.

An “affidavit” from someone who was there when you were born is a written statement by the witness who should write the exact date and place of your birth and how the person knows these facts. It is a sworn statement under penalty of perjury. In other words, the person writing the affidavit swears as if he or she were in a court of law that what he or she is writing is the truth. The “affidavit” should be signed and notarized. An affidavit of this type may not be enough proof of your birth. Gather as much proof as you can of your birth in the United States. If you were born in a hospital but do not have a copy of your birth certificate, contact the hospital where you were born for a certified copy of the certificate.

If you were born on a ship or aircraft and believe you are a U.S. citizen, you should contact a lawyer if possible about how to obtain proof of your citizenship.

- **What if I do not know where I was born?**

You may be a U.S. citizen if you were found in the United States before the age of 5, your parents are not known and DHS cannot prove before you turn 21 years old that you were not born in the United States. Tell DHS or Immigration Judge if this is your situation and try to get a lawyer to help you with your case.

U.S. CITIZENSHIP BY YOUR NATURALIZATION


- **Who is a naturalized U.S. citizen?**

You may be a naturalized U.S. citizen if you had legal permanent residency in the United States and you filled out an application, took a test on your knowledge of the English language and United States history, had an interview with INS or DHS, and took an oath of allegiance to the United States at a “swearing-in ceremony.” Usually you must have been a legal permanent resident for at least five years before you can go through this process. If you got your legal permanent residency through a petition by a U.S. citizen spouse, you can go through the naturalization process three years after getting your legal permanent residency.

If you remember going through this process, you should have received a **naturalization certificate**. At the end of this booklet, there is a sample certificate of naturalization. It is Attachment A. Look at it to see if you remember getting one. If you are a naturalized U.S. citizen, provide a copy of your certificate to DHS and/or the Immigration Judge. If you do not have a copy but believe you are a naturalized U.S. citizen, tell DHS and/or the Immigration Judge so that DHS can check your immigration records to see if there is proof in your file of your naturalization.

If you never went through the naturalization process, you may be eligible to do so now. This booklet does not discuss this situation. Note: You cannot submit an application for naturalization with the Immigration Judge. If you do not have certain criminal convictions and you have been a legal permanent resident for the necessary amount of time (mentioned above), you may be able to submit an application for naturalization to

DHS and have your proceedings terminated until your application is decided. If you have a criminal history, it will be difficult and in many cases impossible to become a naturalized U.S. citizen. If you are interested in naturalizing, we advise you to consult with an attorney before submitting an application.

**If you went through the naturalization process before
and if you are a naturalized U.S. citizen, 
provide a copy of your naturalization certificate to
DHS and/or the Immigration Judge.**

We now explain how you might be a U.S. citizen if one or both of your parents went through the naturalization process.

DERIVATIVE CITIZENSHIP

- **How can I be a U.S. citizen through a parent or parents who became naturalized U.S. citizens?**

You might be a citizen of the United States if one or both of your parents became naturalized U.S. citizens before you turned 18. This type of citizenship is called **derivative citizenship**. It means that when your parents became citizens, you “derived” or got citizenship through them. If you qualify for derivative citizenship, you should have become a citizen automatically when your parent or parents naturalized. You did not have to fill out any forms. So you may have been a U.S. citizen since your parent(s) naturalized and you never even knew it.

General Rule: Generally to be a derivative citizen, both of your parents must have naturalized before your 18th birthday.

You may be a derivative U.S. citizen if all of the following are true:

1. You came to the United States before you turned 18;
2. You became a legal permanent resident before you turned 18;
- AND
3. Both of your parents became naturalized U.S. citizens before you turned 18.

NOTE: Prior to 1941: you could derive citizenship if all of the above occurred before you reached the **age of 21**.

NOTE: After December 23, 1952, there is another requirement for derivative citizenship. **You must not have been married at the time of your parents' naturalization.**

As we discussed above, naturalization is a process for people who were not born in the United States to become U.S. citizens. Typically, to naturalize, a person must have been a legal permanent resident for at least 3 and usually 5 years. The person must also pass an English and American history test and go to a ceremony where they take an oath to uphold allegiance to the United States. If both of your parents successfully went through this process before you turned 18, you are a U.S. citizen. Ask your parents if you are not sure whether they went through this process.

If you meet all of the above requirements, obtain copies of your parents' naturalization certificates and your legal permanent residency card. Give the copies to DHS and/or the Immigration Judge.

If your parents are deceased and you do not have copies of their naturalization certificates, tell DHS and/or the Immigration Judge when you believe your parents naturalized. DHS should be able to search its records to see when and if your parents naturalized. Otherwise, you can submit a Freedom of Information Act ("FOIA") request for copies of your parents' naturalization history. There is a sample FOIA request form at the end of this booklet as Attachment B. You must have your parent's consent to do a search of their immigration records! Your parent could also submit the FOIA form him or herself. You should ask an immigration officer for the address of where to send the FOIA request.

- **What if I entered the United States after my parent or parents naturalized?**

Unless you are claiming derivative citizenship through adoptive parents, it does not matter in what order the requirements for derivative citizenship are met as long as they all happened before your 18th birthday.

- **What if I became a legal permanent resident after my parent or parents naturalized?**

Unless you are claiming derivative citizenship through adoptive parents, it does not matter whether you became a legal permanent resident before or after your parents naturalized as long as you began to live in the U.S. as a legal permanent resident before your 18th birthday.

- **What if only one of my parents became a naturalized U.S. citizen before I turned 18?**

In some cases, you might be a derivative citizen if only one of your parents became a naturalized U.S. citizen before your 18th birthday. In this section, we discuss three different ways.

You may be a derivative citizen if before your 18th birthday, any of the following are true:

- one of your parents naturalized and your other parent was a U.S. citizen at the time of your birth.
- one of your parents naturalized and your parents were divorced or legally separated.
- one of your parents naturalized and your other parent was deceased.
- your mother naturalized and your parents were not married when you were born.

The first way is pretty simple. You only need to prove that one of your parents naturalized before you turned 18 and the **other was a U.S. citizen at the time of your birth.**

I. You are a derivative U.S. citizen if:

1. You came to the United States before you turned 18;
2. You became a legal permanent resident before you turned 18;
3. One of your parents became a naturalized U.S. citizen before you turned 18;
- AND
4. Your other parent was a U.S. citizen at the time of your birth.

The second way you might be a derivative citizen through one naturalized parent involves the **separation or divorce of your parents.**

II. You are a derivative U.S. citizen if:

1. You came to the United States before you turned 18;
2. You became a legal permanent resident before you turned 18;
3. Your parents divorced or became “legally separated” before you turned 18;
- AND
4. One of your parents became a naturalized U.S. citizen before you turned 18 and that same parent had “legal custody” of you.

“Legally separated” means that your parents went to a court of law and asked the court to recognize that they no longer wished to be together. It is a step some couples take

before getting a divorce. If your parents ever were “legally separated,” there should be a document from a court ordering the separation. Also, if your parents got a divorce, they should have a document usually called a “divorce decree” from a court. You will need to obtain a copy of these types of documents to present your case for derivative citizenship through one parent.

“**Legal custody**” means that a family court decided a particular parent should have custody over you. Usually this means that a court decided which parent you should live with after your parents got a divorce or legal separation. Again, if a court gave one of your parents custody over you, there should be a document ordering the custody. Ask your family if they have a copy of such a document.

If your parent no longer has copies of such documents but knows the name of the court where your parents were separated or divorced or where custody was ordered, your parent can request a copy of these documents from that court. You might be able to request a copy yourself. You should contact the court where your parents were divorced or separated, to find out. When requesting the documents, ask for a “certified copy.” A “certified copy” is better than a regular copy because it has a stamp showing that it is a true copy. You will also need a copy of the naturalization certificate of the one parent who became a U.S. citizen before you turned 18. DHS does not provide certified copies of naturalization certificates, so a regular copy will do. You should give the copies of all of these documents to DHS and/or the Immigration Judge. Keep a copy for yourself.

The third way you might be a U.S. citizen through one parent who naturalized involves the **death of one of your parents**.

III. You are a derivative U.S. citizen if:

1. You came to the United States before you turned 18;
2. You became a legal permanent resident before you turned 18; AND
3. Before you turned 18, one of your parents became a naturalized U.S. citizen and the other parent was deceased.

If you meet the above requirements, you should get a copy of the naturalization certificate of one parent and the death certificate of the other parent. If you do not have a copy of the death certificate, find out where your parent died and write to the county or state health department for a certified copy. Give copies of all of these documents to DHS and/or the Immigration Judge.

The fourth way that you might be a derivative citizen through one parent is if your **parents were not married when you were born** and your mother became a naturalized U.S. citizen before you turned 18.

IV. Through your mother--You may be a derivative U.S. citizen if:

1. Your parents were not married when you were born;
2. Your mother became a naturalized U.S. citizen before you turned 18 years old;
- AND
3. Your father did not “establish paternity by legitimation” you before your mother became a naturalized U.S. citizen.

NOTE: If your mother became a naturalized U.S. citizen between the years of 1941 and 1952, you are not a derivative citizen through her unless on December 24, 1952, you were under 16, you were a permanent resident, and your mother was a U.S. citizen.

We explain what it means for your father to “**legitimate**” you below.

NOTE: For all of the above ways to become a derivative citizen through one naturalized parent, **prior to 1941** you could derive citizenship if all of the things required happened before you reached the **age of 21 instead of the age of 18.**

NOTE: If your parents naturalized after **December 23, 1952**, to be a derivative citizen you **must not have been married** at the time of your parents’ naturalization.

• **What if I was adopted?**

The law did not used to allow adopted children to become derivative citizens through their adoptive parents. But, the law changed in 1978 and then again in 1981, so read the following carefully.

You are a derivative citizen if between October 5, 1978 and December 29, 1981:

1. Your parents adopted you before you turned 16;
2. You entered the United States before you turned 18;
3. You became a legal permanent resident before you turned 18;
4. You were in the legal custody of your adoptive parents when your parents became naturalized U.S. citizens;
5. Your adoptive parents became naturalized U.S. citizens before you turned 18;
- AND
6. At the time your parents naturalized, you were not married.

When the law changed in 1981, it became easier for adopted children to derive citizenship.

You are a derivative citizen if after December 29, 1981:

1. Your parents adopted you before you turned 18;
 2. You entered the United States before you turned 18;
 3. You became a legal permanent resident before you turned 18;
 4. Your adoptive parents became naturalized U.S. citizens before you turned 18;
- AND
5. At the time your adoptive parents naturalized, you were not married..

NOTE: If you were adopted, in some cases you may be able to still claim derivative citizenship through your natural/biological parents if they naturalized before you turned 18. **The adoption may not cut off your right to a citizenship claim through your natural parents.** In other words, if you were adopted, you may be able to make a claim to derivative citizenship either through your adoptive parents or through your natural parents or a combination of the two. If you think this applies to you, you should consult with an attorney.

• **How do I apply for derivative citizenship?**

If you qualify for derivative citizenship through any of the three ways listed above, you are already a U.S. citizen and you do not need to apply for it. But, it is a good idea to get proof of your citizenship so that in the future you will not be placed in removal proceedings again. You can get proof of your citizenship by filing an application for a **certificate of citizenship** or for a **passport**. You apply for a certificate of citizenship with DHS by filing an application called an N-600. Ask DHS or the Immigration Judge for the form. We discuss this process later.

CHILD CITIZENSHIP ACT OF 2000

Beginning February 27, 2001 there is a new law that extends citizenship to an even bigger class of people. This law does NOT apply to you if you were 18 or over on February 27, 2001

Under this law, you may be a U.S. citizen if after February 27, 2001 all of the following occurred before your 18th birthday:

1. One of your parents is a U.S. citizen (either by birth or naturalization);
 2. You were residing in the U.S. in the legal and physical custody of your U.S. citizen parent pursuant to a lawful admission for permanent residence;
- AND
3. You were a lawful permanent resident.

Note that under this law, if you were adopted before the age of sixteen and meet all of the above four requirements, you are eligible for U.S. citizenship.

ACQUIRED CITIZENSHIP

- **What is acquired citizenship?**

It is a claim to United States citizenship through one or both of your parents. You may have a claim to what is called “acquired citizenship” if one or both of your parents was a U.S. citizen at the time of your birth. As you have seen by reading this booklet, there are a variety of ways your parents may be citizens. For example, your parent might be a U.S. citizen because he or she was born in the United States or because he or she became a naturalized U.S. citizen. On the other hand, your parent might be a U.S. citizen through his or her parents—for example, if you have a grandparent born in the United States. The key to a claim to acquired citizenship is that one or both of your parents must have been a U.S. citizen **at the time of your birth**.

- **How do I know if I qualify for acquired U.S. citizenship?**

Whether you qualify for acquired citizenship depends on many factors. To learn whether you qualify, you will need to know the answers to the following questions:

1. What is your date of birth? The law has changed many times and you must look at the requirements at the time of your birth.
2. Was one or both of your parents a U.S. citizen at the time of your birth?
3. Is your parent your adopted parent, your stepparent who never adopted you, or your natural parent?
4. Were your parents married at the time of your birth?
5. Did your U.S. citizen parent or parents reside in the United States before you were born? For how many years?

We will now explain in more detail what you need to know in order to answer the above questions. After you understand how to answer the above questions, you should consult the charts at the back of this booklet on pages i to v to see if you might qualify to be a U.S. citizen.

- ***Acquired Citizenship: First Question--
What is your date of birth?***

Over the years, the law on U.S. citizenship has changed many times. To figure out whether you are a U.S. citizen through your parent or parents, you must look at the requirements at the time of your birth. This booklet includes five different charts on pages i to v. The charts contain the requirements for U.S. citizenship. You will know which of the five charts to look at by your date of birth. For example, if you were born in 1965, you would look at Chart 4 on page iv for those people born after December 24, 1952 and before November 14, 1986. To understand how to read the charts, keep reading this section.

- ***Acquired Citizenship: Second Question--
Was one or both of your parents a U.S. citizen at the time of your birth?***

If one or both of your parents was a U.S. citizen when you were born, you might be a U.S. citizen. In answering this question, remember your parent(s) could be U.S. citizen(s) under any of the types of U.S. citizenship described in this booklet. For example:

1. Your parent(s) might have been **born in the United States or one of its possessions**. Look at the requirements for birth in the United States at the beginning of this booklet. In this case, your parent(s) should have a copy of his or her **birth certificate**. If not, perhaps someone who witnessed your parent(s) birth can make a **sworn, notarized statement** about the date, place and time of birth of your parent(s). A sworn, notarized statement is a declaration under penalty of perjury. This kind of sworn statement might not be enough proof by itself of a parent's birth. Try to get other proof if possible.
2. Your parent may have become a **naturalized U.S. citizen before you were born**. Look at the discussion of naturalization at the beginning of this booklet. In this case, your parent(s) should have a copy of his or her **certificate of naturalization**. There is a sample certificate of naturalization at the back of this booklet as Attachment A.
3. Also, your parent might be a **U.S. citizen through his or her parents**. Your parent may or may not know the answer to this question. If your parent knows he or she is a U.S. citizen through your grandparent, your parent should have a **certificate of citizenship**. This certificate is evidence that your parent is a U.S. citizen as of the date your parent was born. There is a sample certificate of citizenship at the end of this booklet Attachment D.

If your parent does not know whether he or she is a U.S. citizen through your grandparent(s), your parent should go through the same process as you are going through right now to determine if he or she qualifies for acquired citizenship. For your parent to do this, he or she should ask the same 5 questions you are asking right now and check the chart on pages i to v.

In other words, if one or both of your grandparents was a U.S. citizen when your parent was born, perhaps your parent is a U.S. citizen. If so, that parent would be a U.S. citizen at the time of his or her birth, which would be before you were born. Then you could see if you are a U.S. citizen through your parent. This is a complicated area. You might want to reread this section after reading all about acquired citizenship and after you understand how the charts on page i to v work.

If your parent(s) is a U.S. citizen,  get a copy of his or her: birth certificate, certificate of citizenship, or naturalization certificate.

- ***Acquired Citizenship: Third Question--
Is your parent your adoptive parent, your stepparent or your natural parent?***

You may have more than one set of parents. You may have a biological mother and father plus a stepmother and/or a stepfather. Your stepparent(s) may or may not have officially adopted you. In the charts on pages i to v, when we mention the word parent or parents, we mean biological parents. In other words, we mean your parents by blood. **If you were adopted by U.S. citizen parents, you are only a U.S. citizen through the adoption if your parents obtained a certificate of citizenship for you before your 18th birthday.** If your parents did not take this step, you cannot claim U.S. citizenship through them. If your stepparents were U.S. citizens but they never adopted you, you cannot make a claim to U.S. citizenship through them.

NOTE:

- You can only make a claim for acquired citizenship through a biological parent(s).
- You cannot make a claim to acquired citizenship through a stepparent who never adopted you.
- You cannot make a claim to acquired citizenship through adoptive parents after your 18th birthday.

- ***Acquired Citizenship: Fourth Question--
Were your parents married at the time of your birth?***

If your **natural or biological** parents were not married at the time you were born, the requirements for citizenship are different depending on whether your mother was a U.S. citizen, your father was a U.S. citizen or both of your parents were U.S. citizens at the time of your birth. If your parents were not married when you were born, once you locate which chart applies to you, check column 4 if your mother was a U.S. citizen at the time of your birth. Check Column 5 if your father was a U.S. citizen at the time of your birth.

Please note: If your father was a U.S. citizen but your parents were never married, it may be difficult to show that your biological father is really your father. If you are lucky, your father's name is on your birth certificate. If not, you can use sworn statements from your mother, from your father and from anyone else who knew your parents at the time of your birth and knows who is your father.

Also please note: If your parents were not married when you were born and you want to show citizenship through your father, you will need to show that your father "legitimated" you. As we explained before, "legitimation" is a hard concept to understand. Normally, everyone knows who your father is because his name is on your birth certificate and he is married to your mother. But, if your parents were not married at the time of your birth or afterward, the law may require your father to take certain steps to show that he is your father. The steps he had to take may depend on the law where he lived or where you lived. The law regarding legitimation is very complicated and we cannot fully explain it here. If you meet the above requirements, you should consult with an attorney or legal agency if possible.

- ***Acquired Citizenship: Fifth Question--
Did your U.S. citizen parent or parents reside in the United States before you were born? For how many years?***

Now that you have answered the first four questions, you will need to look at the charts to see if you have to show that your U.S. citizen parent or parents lived in the United States before your birth. We call this part of the law, "residency requirements." There may or may not be a residency requirement in your case. If there is, you will have to show that your parent lived in the United States anywhere from a few days to 10 years.

Check the charts to see if your parents were required to live in the U.S. before your birth.

- **How do I read the chart on pages i to iv?**

Find the chart that covers your date of birth. You can tell by the title of each chart. Once you locate the right chart, you need to see which column applies to you. Once you locate the column, you should know what the requirements are for you to prove your claim to citizenship. Let's take the following example. Pretend you are Mr. C and that these are the facts of your case:

1. You were born on October 25, 1975 in Canada;
2. Your parents were married at the time of your birth;
3. Your father was born in the United States; and
4. Your mother was born in Canada and is a legal permanent resident of the United States.

You would look at Chart 4 on page iv because if you are Mr. C, your birthdate of October 25, 1975 is after December 24, 1952 and before November 14, 1986. You would look at Column 3 with the heading “At the Time of Your Birth, One Parent U.S. Citizen and One Parent Not a U.S. Citizen or U.S. National” because your father is a U.S. citizen and your mother is not. You then look at the requirements to prove you are a citizen through your father. The box in Column 3 states:

You must show A:

Your U.S. citizen parent *was physically present* in the U.S. or one of its possessions for 10 years prior to your date of birth. At least 5 of the 10 years, must have been after your U.S. citizen parent turned 14 years old. The parent’s years in the U.S. do not need to have been continuous.

OR You must show B:

You were born in one of the U.S.’s outlying possessions, and your U.S. citizen parent *was continuously physically present* in the U.S. or any of its outlying possessions *for one year* at any point prior to your birth.

So, because if you are Mr. C., you were born in Canada, which is not one of the U.S.’s outlying possessions, you must meet the requirements under “A.” So, to prove you are a U. S. citizen, you must show that your father lived in the United States for at least 10 years before you were born. Five of the 10 years must have been after your father was 14 years old, but again these years must be before you were born. You now have to get proof of the years your father lived in the United States. Please take special note that in cases like Mr. C’s, the only relevant years are those years before your birth. We will discuss shortly what kinds of proof you should get to show that your parent lived in the United States.

• **HOW DO I PRESENT MY CLAIM TO U.S. CITIZENSHIP?**

The way you present your claim to U.S. citizenship depends on what type of proceeding you are in. If you are not sure what type of proceeding you are in, look at the discussion on page 2. If you are in **removal, exclusion or deportation proceedings**, you will be going to a court and seeing a judge. There are specific things you should tell the judge, which we discuss in a moment. If you are in **reinstatement of removal or administrative removal proceedings**, you do not have the right to see an Immigration Judge, but you have the right to present a claim of citizenship to DHS.

STEP ONE

Tell DHS or the Immigration Judge you think you are a U.S. citizen.

Removal, Deportation or Exclusion Proceedings:

If you are in removal, exclusion or deportation proceedings, you will have a series of court hearings with an Immigration Judge. At usually your first or second court hearing, the judge will ask you where you were born or if you were born in a specific foreign country. At this point, tell the judge where you were born. If you were born in the United States, the judge will want to see proof of your birth. If you were born outside the United States, but believe you qualify for U.S. citizenship, tell this to the judge immediately after you tell him or her where you were born. Ask the Judge or DHS for a Form N-600, which we discuss in more detail under Step Two.

**When the Immigration Judge asks you where you were born,
if you think you are a U.S. citizen,**



tell the Judge immediately.

Reinstatement of Removal or Administrative Removal Proceedings:

If you are in reinstatement of removal or administrative removal proceedings, you will not see an Immigration Judge. If you think you have a claim to U.S. citizenship, as soon as you get the opportunity, tell DHS that you believe you are a U.S. citizen and that you want to submit proof of your claim. When you tell DHS that you believe you are a U.S. citizen, unless you are a U.S. citizen by your own birth in the U.S., ask for an N-600 form. We discuss this form in more detail under Step Two.

If you will not be seeing an Immigration Judge,



**as soon as possible tell an Immigration Officer that you think
you are a U.S. citizen and ask for an N-600 form.**

STEP TWO

For Claims to Acquired or Derivative Citizenship, Apply for Certificate of Citizenship

If you are making a claim to either acquired or derivative citizenship, you should fill out and file an N-600 form. In other words, if you are claiming citizenship through your parent or parents, fill out and file an N-600 form. If you are claiming U.S. citizenship through your own birth in the United States, then you do not need to file an N-600 form.

To apply for either acquired or derivative citizenship, you need to:



Fill out, copy, and file an N-600 application.

A sample copy of an N-600 is attached to this booklet as Attachment E. The N-600 is an application for a Certificate of Citizenship. You could apply for a U.S. passport instead of a Certificate of Citizenship as proof of citizenship. You must apply for a passport from the State Department, and we are not able to discuss that process in this booklet. In the following pages, we explain how to apply for a Certificate of Citizenship by filling out an N-600 and submitting it to DHS.

- **Where do I get an N-600 form?**

If you are in removal, deportation or exclusion proceedings, ask the Immigration Judge or DHS for an N-600 form at the time you tell the judge that you think you are a U.S. citizen. If you are in reinstatement or administrative removal proceedings, ask DHS for the form at the time you tell them you think you are a U.S. citizen.

If you are claiming U.S. citizenship through a parent or parents,



ask an Immigration Officer or the Immigration Judge for an N-600 form.

There may be times when an Immigration Judge does not think you need to file an N-600 form but just wants to see your proof of citizenship. In this case, skip to Step Three: *Gathering proof of your claim to U.S. citizenship through a parent or parents.*

- **How do I fill out an N-600 application form?**

When filling out the forms, use a typewriter or a pen. DHS is required to make pens or a typewriter available to you so that you can prepare documents for court. Do not use pencil. Also, write all of your answers in English. DHS will not accept any documents in any language except English.

If there is not enough room on the form for you to answer the questions completely, finish your answers on another piece of paper. At the top, put "Continuation of N-600." Make sure that your name and immigration identification number (also called your "A number," since it starts with the letter "A") is on every paper you attach to the N-600 form. **Also, make sure you sign and date every sheet of paper that is a continuation of the N-600.** This rule does not apply to letters and other proof you may submit with your application.

Preparing N-600 Form

- * **Always use a pen or typewriter;**
- * **Only use English;**
- * **Sign and date any paper that is a continuation of the N-600 form.**

- **How do I answer the questions on the N-600?**

You should answer the questions truthfully. If you are not sure how to answer, **do not guess**. Instead, say that you are not sure. This is important because if you provide the wrong information, DHS may think you are not telling the truth. We do not have the space to explain how to answer each question on the form.

- **Do I need to file anything else with the N-600?**

Along with the N-600, you must file proof of your claim to citizenship!

Just filling out the N-600 form alone will not get you a Certificate of Citizenship. You must file along with the N-600, proof of your claim to U.S. citizenship.

STEP THREE

Gathering proof of your claim to U.S. citizenship through a parent or parents.

The proof you will need to gather together depends on the type of claim to citizenship that you have. We discuss first claims to derivative U.S. citizenship then claims to acquired U.S. citizenship.

PROOF FOR DERIVATIVE CITIZENSHIP CLAIMS

If you believe you have a claim to derivative citizenship because one or both of your parents became a naturalized U.S. citizen before you turned 18:

As we discussed in the section of this booklet on derivative citizenship claims, to prove your claim you will need proof of your parent or parents' naturalization. You should also provide a copy of your birth certificate to show that you are the child of your parent or parents. If you are claiming through one parent rather than two, get copies of divorce, legal separation and custody documents or the death certificate of your parent who passed away. Provide all the proof to DHS along with the N-600 form. We discuss in more detail below how to file the N-600 form along with the proof to your citizenship claim.

PROOF FOR ACQUIRED CITIZENSHIP CLAIMS

If you believe you have a claim to acquired citizenship because one of both of your parents was a U.S. citizen at the time of your birth:

You will need proof of your parent's United States citizenship at the time of your birth.

Proof of your parent's citizenship could be:

1. **Birth Certificate**--certificate of your parent's birth;
2. **Naturalization Certificate**--certificate of your parent's naturalization as a U.S. citizen;
3. **Passport**--your parent may have gotten a U.S. passport before you were born; **OR**
4. **Certificate of Citizenship**--a certificate which your parent obtained by proving a claim to U.S. citizenship through his or her parents, perhaps similar to the claim you are making now.

You also may need proof that your parent resided in the U.S. for a certain period of time. You should have looked at the chart on pages i to v to figure out what time period you must prove your parent was in the United States. Proof of your parent's residency in the United States is difficult but not impossible to gather. The following are suggested types of proof. Gather as much proof as you can.

Proof of Parent's Residency in the United States for Acquired Citizenship Claims:

1. FOIA Request:

It might be helpful to submit a Freedom of Information Act ("FOIA") Request on your U.S. citizen parent or parents. Ask an Immigration Officer for a FOIA request form and the address of where to send the request. You should write a cover letter and send it with the FOIA request. If you are in DHS custody, you should tell this to the FOIA officer in your cover letter and ask the FOIA office to respond quickly. A sample FOIA request form and a sample cover letter are included as Attachments B and C.

2. Parent's school records

Before you were born, your parent may have attended elementary, junior high, high school or college in the United States. Ask your parent or members of your family where your parent went to school. If your parent is alive, have the parent write or call the schools to find out the process for requesting records. If your parent is not alive, you or your family members can request the records.

3. Parent's records from church or other religious institutions

Before you were born, your parent may have attended a particular church, temple, synagogue, etc. Your parent may have been a member of a church or other institution. Your parent may have records of his or her baptism, communion or other church ceremonies. Ask your parent for records of his or her religious involvement, or ask your parent to write for such records from the religious organization. Also, there may be someone at the church or institution that remembers your parent and can write a letter about the parent's attendance or membership at the church or institution. The person writing the letter should be as specific as possible about the dates your parent was involved in the church or institution and how the author of the letter knows this. Also, the letter should be notarized.

4. Parent's work records

Your parent may have worked in the United States and have records of their employment, such as check receipts. Your parent can and should request a copy of their social security records. If your parent is no longer alive, an immediate family member such as yourself can request the social security records. If the parent is still alive, only he or she can request the records. To request social security records, we have enclosed at the back of this booklet as Attachment F a sample form you can use. It is Form SSA-7004. If you are able to make a copy of this form, follow the instructions given on the form. If not, write to the following address and request FORM SSA-7004 (Request of Earnings and Benefit Estimate Statement).

Social Security Administration
Box 3600
Wilkes-Barre, PA 18767-3600

We strongly recommend that you or your parent request these records. They can be very good proof of the years your parent was in the United States.

5. Parent's tax returns

If your parent worked in the United States during the years you need to prove that he or she was in the U.S., the parent may have filed income tax forms. Your parent or family may have copies of such forms. If not, your parent can request a copy of the forms from the Internal Revenue Service. If your parent is not alive, you or an immediate family member can request the forms. To make the request, fill out Form 4506 ("Request for Copy or Transcript of Tax Form") and send it to the IRS. A sample form is included at the end of this booklet as Attachment G. The address where you send the form depends on where your parent lived when they filed their taxes. Look at the instructions for Form 4506 to find the correct address.

6. Census Records

Your U.S. citizen parent may have been counted in a census survey in the United States at some point in their lives before your birth. A census survey is done by the U.S. Census Bureau every 10 years. A census survey is a way of counting the population in a country. If your U.S. citizen parent was ever counted in a survey, proof of the survey is some evidence that the parent was present in the United States. in the year or years counted. As you will see census records can be very difficult to obtain and sometimes you will need to pay for copies of the records. For these reasons, you may want to concentrate on getting the other forms of proof.

If you want to prove your parent was in the United States before 1920, the census records are somewhat easier to obtain. The census records from the years 1790 to 1920 have been made public and are available through National and Regional Archives. If you are trying to prove your parent was in the United States prior to 1920, you should contact the archives office nearest you. Attachment H contains a list of the different regional offices. You might need to actually send a family member to the regional office to search for and obtain the records. There may be a charge for copies of the records.

If you want to prove your parent was in the United States after 1920, the census records are more difficult to obtain. The records are confidential and are not available to the public. But, your parent can request census records about him or herself. If your parent is deceased and if you are a legal heir of your parent, you can request the records yourself. The problem is that you have to pay for the records, and the cost could be \$40 or more just to request records for a particular year. Also, you have to say which year you want to know about. If you are not sure when your parent was in the United States, you may be interested in several years. You will have to pay for each year that the Census Bureau searches its records. Finally, you must know your parent's address at the time your parent may have been counted in a census. If you decide to request census records for any years after 1920, you can obtain an application form from:

Personal Census Search Unit
Bureau of the Census
Box 1545
Jeffersonville, IN 47131
(812) 285-5314

OR

History Staff
Bureau of the Census
Washington, DC 20233
(301) 457-1167

While census records may be helpful, keep in mind it is not certain that your parent has ever been included in a census survey and it may take a lot of resources to make the request.

7. Rent Records or Home Ownership Records

Your parent may have paid rent or owned a house during the years you are interested in proving that the parent was living in the United States. The following are good proof of your parent's presence in the U.S.: copies of rental agreements, leases, rent receipts, house payments or home ownership documents. If your parent was a renter but has no records of this, perhaps the landlord is still alive and could write a letter stating that your parent rented from him or her and should state the exact years your parent paid rent. Again the letter should be signed and notarized.

8. Military or Draft Records

Your parent may have served in the U.S. military during the years you want to prove he or she was in the United States. If your parent is alive, the parent must be the one to request copies of his or her military records. If your parent is deceased, you or another immediate family member can request the records. To request military records use Form 180. Follow the instructions on the form, which tell you where to send your request and the information to include in the request. Attachment I, has a sample Form 180.

If you are trying to prove citizenship through your father, perhaps he registered for the **Selective Service**. All men who are U.S. citizens or legal permanent residents and over 18 years of age are required to register to serve in the military in the case of war. Your father might have registered only once or he may have registered several times. Your father can request his records. If your father is no longer alive, you can request copies of his records. To see if your father registered, you or a family member can call 1-847-688-6888. You must know your father's birthdate and his social security number.


9. Affidavits from Witnesses

Perhaps your parent has friends or community members who were acquainted with your parent in the U.S. during the years you want to prove your parent was in the United States. You or your family could request that such witnesses write "affidavits" stating:

- the exact years they knew your parent,
- how they knew your parent,
- where your parent was during those years (city, state, address if known), and
- any other specific information they remember about your parent such as your parent's type and place of employment, school attendance, or church attendance.

The affidavit must be signed and notarized. It also must be written in English.

NOTE:

 If a document or letter is not in English, Attach an English translation!
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Remember, everything that you give to DHS or the Immigration Judge has to be in English or has to be translated into English. If a letter or other document is not in English, you need to find someone to translate it. At the end of the translated document or letter, the person who translated it should put the following:

I, <u>(name of translator)</u> , certify that I am competent to translate this document and that the translation is true and accurate to the best of my abilities. <p style="text-align: right;">(signature of translator) (date)</p>
--

- **What is the best kind of proof?**

Affidavits from friends, family members or acquaintances who knew your parent when he or she lived in the United States before your birth are not enough proof. You must have some “objective” proof of the years your parent lived in the United States. For example, the best kinds of proof are social security records, military records, work records and school records.

- **How much proof is enough?**

You can never have enough proof. Gather as much proof as you can. The more proof you have, the more likely you are to win your case.

Remember that you only need proof of your parent’s years in the United States that are required for your case. Your parent may have been in the U.S. for a very long time, longer than you need to prove. You need to show your U.S. citizen parent was here for a number of years before you were born. Proving the years your parent was here after you were born will not help you!! Your parent’s years after you were born are not important to your case. By looking at the charts on pages i to v, you should be able to figure out what years you need to prove your parent was in the United States.

For example, let’s return to Mr. C.

Mr. C was born on October 25, 1975, and needs to show that his U.S. citizen father lived in the United States for 10 years before Mr. C’s birth. Five of those 10 years have to be after Mr. C’s father turned 14 years old, but before Mr. C’s birth.

Let’s say Mr. C’s father was born in 1950. Mr. C would need to show that his father was in the United States for 10 years between 1950 and 1975. Also, five of those years have to be after 1964 because that is when Mr. C’s father turned 14.

So, if Mr. C had proof of that his father lived in the U.S. for five years between 1950 and 1964 and five years between 1964 and 1975, he would have the required proof.

Also, Mr. C would have the required proof if his father lived in the United States from 1964 to 1972, that would be 8 years, and in the year 1951 and 1953, which would be the other two years.

If Mr. C's father was only in the U.S. from 1950 to 1964 and no years between 1964 and 1972, he would not have the required proof because his father has no years in the U.S. after the age of 14.

REMEMBER: The years that your U.S. citizen parent was in the U.S. do not have to be continuous or all in a row. As the above example shows, you can use a period of years, skip some years and start over. The important thing is that the years fall within the required time period for your case. If you cannot figure out what that time period is, ask DHS or the Immigration Judge.

Important Points Regarding Proof of Your Parent's Time in the United States:

1. Gather as much proof as you can that your parent lived in the United States during the required years.
2. Remember, your parent's years in the U.S. after you were born do not count, so do not waste your time gathering proof of those years.
3. Remember, the years do not have to be all in a row.

• **HOW DO I FILE THE N-600 FORM AND PROOF OF MY CLAIM?**

Once you have filled out the N-600 form and gathered all of your proof, you must file everything with the "Examinations" division of DHS. This is true no matter which type of proceedings you are in. You cannot file an N-600 form with the Immigration Judge. The Judge does not have the power to issue you a Certificate of Citizenship. Only DHS has this power.

Ask your Deportation Officer or another Immigration Officer where to file the N-600 and to help you file it.

To file the N-600 form you must provide DHS with the following:

1. the original N-600 form;
2. two photographs of yourself;
3. a fee of \$160; and
4. proof of your claim to citizenship (as discussed previously).

Photographs

If you are detained at the time you file your N-600 application, you should ask an Immigration Officer if you can get the photographs taken at the detention center where you are being held. If you are not detained at the time you file the N-600, ask DHS for instructions. The photographs must be the exact size and type of photograph that DHS requests or DHS will reject your N-600 application.

N-600 Fee

At the time of the writing of this booklet (February 1999) the fee for filing an N-600 is \$160. To be certain about the amount of the fee, ask an Immigration Officer what the fee is. You will need a cashier's check or money order payable to the Immigration and Naturalization Service in the exact amount of the required fee. Keep a copy of the check or money order, and ask the Immigration Officer for a receipt that shows that the N-600 application was filed and that the fee was paid. Keep these for your records. You must pay the fee to file the N-600 form. As a general rule, there is no waiver if you cannot afford the fee. However, DHS currently has a fee waiver policy which may be applicable in limited cases

- **Should I make copies of these forms after I fill them out?**

Ask the Immigration Officer who helps you file the N-600 to provide you with at least one copy of the N-600 form and the proof you are filing with it. If you are in removal, deportation or exclusion proceedings, ask the Immigration Officer for three copies. One copy is for you, one is for the Immigration Judge, and one is for the trial attorney for DHS.

- **WHAT HAPPENS AFTER I FILE THE N-600?**


What happens next depends on the type of proceeding you are in.

If you are in reinstatement or administrative removal proceedings, DHS should ask Examinations to consider your N-600 application and make a decision as fast as possible as to whether you are a U.S. citizen. Examinations may want to interview you or your family members before making its decision. If your family is located in another state, they might be able to have an interview with a different Examinations officer close to where they live. DHS should not remove you from the United States while your N-600 is being decided. If Examinations decides you have enough proof of citizenship, it will issue you a Certificate of Citizenship and DHS will terminate its proceedings against you. You will not be removed from the United States and will be released from detention.

If you are in removal, exclusion or deportation proceedings, Examinations is unlikely to decide your N-600 before you see the Immigration Judge. Give the judge a copy of everything that you filed with Examinations, including the N-600 form you filled out and all of the proof you gathered.

Even if Examinations has not decided your N-600 form, the Judge can consider your evidence and decide him or herself whether you have provided enough evidence to prove you are not an “alien” of the United States. If the Judge decides you have enough proof, he or she should “terminate” the proceedings against you. This means DHS can no longer try to remove you from the United States.

If you are in removal or deportation proceedings and the Judge “terminates” the proceedings against you, you should immediately ask the Judge for your release on your own recognizance from DHS custody. This means that you do not have to pay a bond to be released. If you were arrested at sea or at a border crossing station or in an airport or if you are in exclusion proceedings, you will have to ask DHS to release you from custody. To find out more about this process, read the booklet called *“How to Ask for Release from Immigration Custody.”*

If you are in removal or deportation proceedings and the Judge “terminates” the proceedings against you,
 **ask the Judge to release you from DHS custody “on your own recognizance.”**

- **If the Judge terminates proceedings, what happens to my N-600 application?**

If the Immigration Judge finds that you have enough proof that you are not an alien of the United States but the Examinations division of DHS has still not decided your N-600 application, you cannot be removed, but at the same time, you do not yet have proof of your U.S. citizenship. The judge cannot decide that you have U.S. citizenship status. To get proof of your U.S. citizenship, you will need to wait until Examinations decides your N-600 application. In some cases, the Immigration Judge might find that you have enough proof that you are not an alien of the United States even though you have not filed an N-600 application, and the Judge will terminate your proceedings. In this case, you also do not have proof of your citizenship, and you should file an N-600 application with Examinations or apply for a passport with the State Department.

If the Judge terminates the proceedings against you, the Judge should release you from DHS custody. If this happens and you have filed an N-600 application with Examinations, the application will probably be transferred to the Examinations division of DHS closest to where you live. Be sure to tell DHS your correct address before you leave detention, so that you will receive any notices to appear at Examinations for your interview. Examinations should continue to consider your N-600 application and eventually call you and perhaps your family for an interview. You should try to find an attorney to help you with this process.

If you are released from detention while your N-600 application is still being considered, it is unclear what your legal status is. If you had legal permanent residency before you were put in immigration proceedings, it is not clear whether you can work with your legal permanent residency card. The best thing is to hope that your N-600 is decided quickly.

- **IF THE JUDGE RULES AGAINST ME, WHAT SHOULD I DO?**

If the judge rules against you, you have three possible options:

1. you can accept the judge's decision and accept an order of removal;
2. you can accept the judge's decision but ask for voluntary departure; or
3. you can decide not to accept the judge's decision and “reserve” your right to file an appeal.

- **What is the difference between getting voluntary departure and getting ordered removed?**

Generally, if you qualify, getting voluntary departure is better than getting ordered removed. But, there are consequences regarding your ability to return to the U.S. in the future whether you leave through voluntary departure or removal. It is important that you understand all of the possible consequences, which differ depending on your criminal history and length of time in the U.S.

If you have a criminal history, you may not qualify for voluntary departure. If you think you will ask for voluntary departure if you do not win your case, please read our booklet called *"How to Apply for Voluntary Departure."* The booklet explains who qualifies for voluntary departure, what conditions you must satisfy in order to be granted voluntary departure, and the consequences of leaving the country under an order of voluntary departure instead of an order of removal.

- **WHAT DOES IT MEAN TO APPEAL THE JUDGE'S DECISION?**

If you or DHS disagree with the judge's decision, you both have the right to keep fighting the case by appealing the decision to a higher court called the Board of Immigration Appeals. This court is a group of judges in Virginia who look at all the papers filed in the case and everything that was said in court, and decide if the judge was right. It is usually hard to win an appeal, but if you believe that you have enough evidence of your claim to U.S. citizenship and you did not win your case, you should appeal. If you want to appeal, you should consult with an attorney.

When the judge tells you his or her decision on your case, he or she will ask both you and the trial attorney whether you want to “reserve appeal” or “waive appeal.” “Reserving appeal” means you want to hold on to your right to appeal. To “waive appeal” means to give up your right to appeal. If both sides “waive appeal,” that is the end of the case.


If the judge decides to give you his or her decision in writing, your right to appeal should be automatically reserved for you. You have 30 days from the date of the judge's written decision to appeal if you do not win.

If you or DHS "reserve appeal," the person reserving appeal has 30 days to file a paper called a "Notice of Appeal" with the Board in Virginia. If DHS appeals, it has to send you a copy of this Notice. If you appeal, you have to send DHS a copy of your Notice.

- **What if DHS appeals my case?**

The trial attorney may say he or she wants to "reserve appeal," but that does not mean DHS will actually appeal. You may not know for sure until 30 days from the judge's decision. If DHS has not filed a Notice of Appeal by then, it cannot appeal. You should know if DHS has filed a Notice of Appeal or not because you should get a copy of the Notice if it is filed. If DHS does file a Notice of Appeal and, on the form, says that it will file a "brief" or written statement later, the Board of Immigration Appeals will send you and DHS a paper saying when DHS must file its brief or statement. This paper will also say when you should mail to the Board any response you want to write to DHS's arguments. Try to get a lawyer to help you with this if you can.

In addition,

If you win and DHS reserves its right to appeal,
 **Ask the judge or DHS to order you released on your own recognizance (without having to pay bond)!**

- As we mentioned previously, if you qualify to ask the judge for a bond and you win your case, ask the judge to release you right then and there! If you do not get the chance, write the judge a letter asking for a bond hearing (even if you had one before). If you do not qualify for a bond from the judge, ask DHS to release you from DHS detention.

- **If I lose, how do I appeal?**

If you lose and you "reserve appeal," the Board of Immigration Appeals must receive your papers by the 30th day after the judge's decision or the appeals board will not read them.

The forms you must fill out in order to appeal the judge's decision are:

- 1) a white "Notice of Appeal" form (EOIR-26), and

- 2) a brown "Appeal Fee Waiver Request" form (EOIR-26A) (unless you can pay a \$110 fee, in which case, follow the instructions on the "Notice of Appeal" form and pay the fee)

The forms explain how to fill out your appeal and where to send it.

If, after 30 days, the appeal papers have not been received in Virginia, you will not be allowed to appeal, and the judge's decision will become final. For this reason, we recommend mailing the papers as soon as possible and mailing them by express mail or "certified mail" (with proof of receipt).

If the Board has received your forms, it will give DHS a chance to file some papers also. DHS will give you a copy of whatever papers it files.

If you are detained during the appeal process, it usually takes from six months to a year or more for the Board to decide the appeal. If you are out of custody during the appeal process, it may take much longer. There is no set time frame, and it is impossible to determine how long the appeal will take.


- **What if the Board of Immigration Appeals decides against me?**

You may be able to appeal the Board's decision to a federal court. If you have certain types of criminal convictions, it can be more difficult to appeal to a federal court. Also, unless you get a special order from a federal court as soon as the Board of Immigration Appeals decides your case, DHS may remove you from the country before you have the chance to get into federal court! This can happen very fast, so if you or DHS appeals your case to the Board, you should try to get a lawyer's help before the Board makes its decision. Appealing a case to federal court is very complicated, so this booklet does not explain how to do that.

- **WHAT HAPPENS IF I GET OUT OF DETENTION BEFORE MY CASE IS DECIDED?**

If you are allowed to leave the detention center before your case is over, your case continues. If you are in removal, deportation or exclusion proceedings, you will have future court dates. The court will send you a letter telling you the date, time, and place of your next hearing.

For this reason, it is extremely important that you try to find legal help as soon as possible. Don't delay.

**When you leave the detention center,
 look for legal help for your case!**

It is also very important that you or your lawyer ask the court to transfer your case to a different court, unless you want to go to court where your case is now. You do this by filling out a form called a "**Motion for Change of Venue**" on which you write the address where you plan to live when you leave the detention center. Note: your address must be a street address, not a post office box!

At the back of this booklet is a sample form that you may use to change the location of your future court hearings, but some courts may want you to use a different form, so find out. At some detention centers, an Immigration officer will give you the form and will give it to the court after you complete it. Find out how things are done at your detention center and make sure to file the right form with the court. You must send a copy to DHS's attorney of any papers you file with the court.

When the court gets your request to change court locations, it will send your file to the Immigration Court closest to the address you wrote down. That court will then send you a letter telling you where and when to go for your next hearing. After receiving this letter, you should then only send things to the Court and DHS in your new location.

When you leave the detention center, if you do not want your next court hearing to be where you are now,



file a "Motion for Change of Venue!"

Some courts require a more complete explanation of why you want to change court locations. At the time of your bond hearing, ask the judge if you will need to do that.

Remember, if you miss a hearing, the judge will order you removed from the U.S.!

- **What should I do if I move?**



Every time you move, it is your responsibility to tell both the Immigration Court and DHS within five days of moving! There are special forms to do this. You should send the blue change of address form (Form EOIR-33) to the Immigration Court. DHS might want you to send it a different change of address form. You should ask an Immigration Officer for the forms when you leave. Letting the Court and DHS know your new address will not change where you will have your hearing. Instead, the special forms used for changes of address let the Court and DHS know where to send you papers about your case.

When the Immigration Court and DHS send you papers, they will send them to the address you gave them. **If the Court only has an old address for you, it will send the paper telling you when your next hearing is to the old address, and when you do not show up to court on that date, you can receive an order of removal. This means that the next time DHS arrests you, you can be sent back to your country without a hearing.**

If you move,



send the Immigration Court your new address!

It is important to remember that the Court and DHS are two different offices. If you let DHS know your new address but you do not send the right form to the Immigration Court, the Court will keep sending papers to you at your old address, and you can miss your court date. If that happens, you will get a removal order without seeing a judge.

- **DON'T BE AFRAID**

People who are in immigration proceedings do get issued Certificates of Citizenship and/or have the removal proceedings against them terminated. Preparing your case is a lot of work, but the more you prepare, the better chance you have of winning your case.

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This booklet was written by Elizabeth Dallam, former Director of the Florence Project. Funding was provided by the Ford Foundation. Many of the ideas for this pamphlet were drawn from Daniel Levy's Naturalization Handbook (1998) published under the auspices of the National Immigration Project.

We wish to thank the following members of the National Advisory Board, which was established to review and edit these materials: Jeanne Butterfield of the American Immigration Lawyers Association, Regina Germain of the Washington, D.C. Office of the United Nations High Commissioner for Refugees, Linton Joaquin of the National Immigration Law Center, Dan Kesselbrenner of the National Immigration Project of the National Lawyers Guild, Judy Rabinovitz of the Immigrants' Rights Project of the American Civil Liberties Union, Mark Silverman of the Immigrant Legal Resource Center, and Carol Wolchok of the Center for Immigration Law and Representation of the American Bar Association. Any mistakes are the author's own.

Certificate of Service

Name: _____

A#: ____ -- ____ -- ____

I certify that on _____, _____, I served the Immigration and
(date) (year)
Naturalization Service with a copy of the foregoing by placing a true and complete copy
in an envelope, postage prepaid, and mailing it, addressed as follows:

District Counsel
Department of Homeland Security

(Sign your name here)

**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW**

City and state where court is

_____)	IN REMOVAL PROCEEDINGS
In the Matter of)	
_____)	File No. A _____
(your name))	
Respondent)	MOTION FOR CHANGE OF
_____)	VENUE

The Respondent has bonded out and will be residing at:

(your address outside of detention)

The Respondent requests that his case be transferred to the Immigration Court that covers the area of his residence.

CERTIFICATE OF SERVICE

This original document is being sent by mail to:

Executive Office of Immigration Review
Office of the Immigration Judge

(address of court that handled your case while you were in DHS custody)

I hereby certify that I have served a copy of this motion by mailing a copy to:

District Counsel
Department of Homeland Security

(address of DHS office that handled your case when you were in DHS custody)

Date: _____

Signed: _____
Respondent (sign your name here)