

NATURALIZATION FOR SPOUSES OF U.S. CITIZENS: DO NOT MISS THE OPPORTUNITY.

By Michael Phulwani, Esq. , David Nachman, Esq. and Ridhima Goyal at the Nachman Phulwani Zimovcak Law Group, P.C. with offices in Ridgewood, New Jersey, New York City and with an affiliated office in Mumbai, India.

Naturalization is the process through which a Lawful Permanent Resident or Green Card holder becomes a U.S. Citizen. If an individual has been a green card holder for a period of five (5) years and meets other appropriate criteria he/she can apply for Citizenship in the U.S. If a green card holder remains married to a U.S. Citizen (who has filed for the green card) then they do not have to wait five (5) years but they can file for Citizenship 90 days prior to the third anniversary of being a green card holder.

The advantages of U.S. Citizenship are numerous. The most important advantage of being a U.S. Citizen is that you will be able to sponsor family members in classifications (generally) faster than if you are a green card holder. Additionally, many of our clients and potential clients want to sponsor their parents and bring them to the U.S. to retire and to spend their later years with younger members of the family. Of course, being a U.S. Citizen allows you to vote and to make your voice heard about the politicians that will be representing you in the Federal, State and Local governments.

To qualify for Naturalization under Section 319(a) of the Immigration and Nationality Act (INA), you must have been a permanent resident in the U.S. (green card holder) for at least three years, you must have been living in marital union with the same U.S. citizen spouse for the entirety of these three years, and you must meet all other the other eligibility requirements under this section. However, under Section 319(b) of the INA, you may qualify for naturalization if you are a spouse of a U.S. citizen employed abroad regardless of your time as a permanent resident.

The general eligibility requirements for naturalization as a spouse of a U.S. citizen are as follows:

1. You must be 18 or older.
2. You must be a permanent resident (green card holder) for at least 3 years immediately preceding the date of filing a Form N-400, Application for Naturalization.
3. You must have been living in marital union with your U.S. citizen spouse, who has been a U.S. citizen throughout the three years, during the three years immediately preceding the date of filing the application and up until examination on the application.
4. You must have lived within the State, or USCIS district with jurisdiction over your place of residence for at least three months prior to the date of filing your application.

5. You must have continuous residence in the U.S. as a lawful permanent resident for at least three years immediately preceding the date of filing your application.
6. You must reside continuously within the U.S. from the date of your application for naturalization until the time of naturalization.
7. You must be physically present in the U.S. for at least eighteen months out of the three years immediately preceding the date of filing the application.
8. You must be able to read, write, and speak English and have knowledge and understanding of U.S. history and government (also known as “civics”).
9. You must be a person of good moral character, attached to the principles of the Constitution of the U.S. and well disposed to the good order and happiness of the U.S. during all relevant periods under the law.

If you are the spouse of a U.S. citizen who is employed by the U.S. government, including the military, or other qualifying employer, and your spouse is stationed abroad in such employment for at least one year, under Section 319(b) of the INA you may be eligible for naturalization given the following:

In general, you must be present in the U.S. pursuant to a lawful admission for permanent resident at the time of examination on the naturalization application and at the time of naturalization and meet all of the requirements above except that:

1. While there is no specific period for which you must be a permanent resident (green card holder), you must still be a permanent resident.
2. There is no specific period of continuous resident or physical presence in the U.S. required.
3. There is no specific period of marital union required, but you and your spouse must actually be in marital union.

An additional requirement to the above list is that you must also establish that you will depart from the U.S. immediately after naturalization and that you intend to reside in the U.S. immediately upon the termination of your spouse’s employment abroad.

If you should have any questions about Naturalization by way of marriage to a U.S. Citizen or after holding the Green Card for five (5) years, or if you should have questions about any other immigration law issues, please feel free to contact any of the immigration lawyers at Nachman Phulwani Zimovcak Law Group, P.C. at 201-670-0006 (x100) or you can e-mail us at info@visaserve.com.