

EHLP Information on documentation required for U.S. Citizens, Non-Citizen Nationals, and Qualified Aliens

This information is excerpted from the Department of Justice Interim Guidance on Verification of Citizenship, Qualified Alien Status and Eligibility under Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. A full copy of the interim guidance is available here: http://www.acf.hhs.gov/programs/cb/laws_policies/cblaws/fed_reg/fr111797.htm.

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U.S. Citizen or Non-Citizen National

Subject to certain exceptions and qualifications (particularly with respect to derivative citizenship), a United States citizen is:

- A person (other than the child of a foreign diplomat) born in one of the several States or in the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands, or the Northern Mariana Islands who has not renounced or otherwise lost his or her citizenship;
- A person born outside of the United States to at least one U.S. citizen parent (sometimes referred to as a “derivative citizen”); or
- A naturalized U.S. citizen.

As a general matter, a United States non-citizen national is a person born in an outlying possession of the United States (American Samoa or Swain's Island) on or after the date the U.S. acquired the possession, or a person whose parents are U.S. non-citizen nationals (subject to certain residency requirements).

The law regarding U.S. citizenship and nationality is complex. These broad definitions are provided for general guidance only, and do not address all of the complexities involved in attaining or losing status as a U.S. citizen or non-citizen national. See 8 U.S.C. 1401 et seq. If you have any questions regarding whether an applicant is a U.S. citizen or non-citizen national, you should consult with the INS (in the case of a naturalized citizen) or the federal agency or department that oversees your program.

Documentary Evidence of Status as a U.S. Citizen or Non-Citizen National

Copies of the following documents will, when combined with satisfactory proof of identity (which will come from the document itself if it bears a photograph of the person to whom it relates), demonstrate that a person is a U.S. citizen or non-citizen national for purposes of Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. ... These lists are

not exhaustive; you should refer to guidance issued by the agency or department overseeing your program to determine if it accepts documents or other evidence of citizenship not listed below.

A. Primary Evidence

- **A birth certificate** showing birth in one of the 50 States, the District of Columbia, Puerto Rico (on or after January 13, 1941), Guam, the U.S. Virgin Islands (on or after January 17, 1917), American Samoa, Swain's Island or the Northern Mariana Islands, unless the person was born to foreign diplomats residing in the U.S. (Note: If the document shows that the individual was born in Puerto Rico, the U.S. Virgin Islands or the Northern Mariana Islands before these areas became part of the U.S., the individual may be a collectively naturalized citizen—see Paragraph C below.)
- **United States passport** (except limited passports, which are issued for periods of less than five years);
- **Report of birth abroad of a U.S. citizen (FS-240)** (issued by the Department of State to U.S. citizens);
- **Certificate of birth (FS-545)** (issued by a foreign service post) or **Certification of Report of Birth (DS-1350)** (issued by the Department of State), copies of which are available from the Department of State;
- **Certificate of Naturalization (N-550 or N-570)** (issued by the INS through a Federal or State court, or through administrative naturalization after December 1990 to individuals who are individually naturalized; the N-570 is a replacement certificate issued when the N-550 has been lost or mutilated or the individual's name has been changed);
- **Certificate of Citizenship (N-560 or N-561)** (issued by the INS to individuals who derive U.S. citizenship through a parent; the N-561 is a replacement certificate issued when the N-560 has been lost or mutilated or the individual's name has been changed);
- **United States Citizen Identification Card (I-197)** (issued by the INS until April 7, 1983 to U.S. citizens living near the Canadian or Mexican border who needed it for frequent border crossings) (formerly Form I-179, last issued in February 1974);
- **Northern Mariana Identification Card** (issued by the INS to a collectively naturalized citizen of the U.S. who was born in the Northern Mariana Islands before November 3, 1986);
- **Statement provided by a U.S. consular officer certifying that the individual is a U.S. citizen** (this is given to an individual born outside the U.S. who derives citizenship through a parent but does not have an FS-240, FS-545 or DS-1350); or
- **American Indian Card** with a classification code “KIC” and a statement on the back (identifying U.S. citizen members of the Texas Band of Kickapoos living near the U.S./Mexican border).

B. Secondary Evidence

If the applicant cannot present one of the documents listed in A above, the following may be relied upon to establish U.S. citizenship or nationality:

- **Religious record** recorded in one of the 50 States, the District of Columbia, Puerto Rico (on or after January 13, 1941), Guam, the U.S. Virgin Islands (on or after January 17, 1917)), American Samoa, Swain's Island or the Northern Mariana Islands (unless the person was

born to foreign diplomats residing in such a jurisdiction) within three months after birth showing that the birth occurred in such jurisdiction and the date of birth or the individual's age at the time the record was made;

- **Evidence of civil service** employment by the U.S. government before June 1, 1976;
- **Early school records** (preferably from the first school) showing the date of admission to the school, the child's date and place of birth, and the name(s) and place(s) of birth of the parent(s);
- **Census record** showing name, U.S. citizenship or a U.S. place of birth, and date of birth or age of applicant;
- **Adoption Finalization Papers** showing the child's name and place of birth in one of the 50 States, the District of Columbia, Puerto Rico (on or after January 13, 1941), Guam, the U.S. Virgin Islands (on or after January 17, 1917), American Samoa, Swain's Island or the Northern Mariana Islands (unless the person was born to foreign diplomats residing in such a jurisdiction) or, where adoption is not finalized and the State or other jurisdiction listed above in which the child was born will not release a birth certificate prior to final adoption, a statement from a state-approved adoption agency showing the child's name and place of birth in one of such jurisdictions (NOTE: the source of the information must be an original birth certificate and must be indicated in the statement); or
- **Any other document that establishes a U.S. place of birth or in some way indicates U.S. citizenship** (e.g., a contemporaneous hospital record of birth in that hospital in one of the 50 States, the District of Columbia, Puerto Rico (on or after January 13, 1941), Guam, the U.S. Virgin Islands (on or after January 17, 1917), American Samoa, Swain's Island or the Northern Mariana Islands (unless the person was born to foreign diplomats residing in such a jurisdiction)).

C. Collective Naturalization

If the applicant cannot present one of the documents listed in A or B above, the following will establish U.S. citizenship for collectively naturalized individuals:

Puerto Rico:

- Evidence of birth in Puerto Rico on or after April 11, 1899 and the applicant's statement that he or she was residing in the U.S., a U.S. possession or Puerto Rico on January 13, 1941; or
- Evidence that the applicant was a Puerto Rican citizen and the applicant's statement that he or she was residing in Puerto Rico on March 1, 1917 and that he or she did not take an oath of allegiance to Spain.

U.S. Virgin Islands:

- Evidence of birth in the U.S. Virgin Islands, and the applicant's statement of residence in the U.S., a U.S. possession or the U.S. Virgin Islands on February 25, 1927;
- The applicant's statement indicating resident in the U.S. Virgin Islands as a Danish citizen on January 17, 1917 and residence in the U.S., a U.S. possession or the U.S. Virgin Islands on February 25, 1927, and that he or she did not make a declaration to maintain Danish citizenship; or
- Evidence of birth in the U.S. Virgin Islands and the applicant's statement indicating residence in the U.S., a U.S. possession or territory or the Canal Zone on June 28, 1932.

Northern Mariana Islands (NMI) (formerly part of the Trust Territory of the Pacific Islands (TTPI)):

- Evidence of birth in the NMI, TTPI citizenship and residence in the NMI, the U.S., or a U.S. territory or possession on November 3, 1986 (NMI local time) and the applicant's statement that he or she did not owe allegiance to a foreign state on November 4, 1986 (NMI local time);
- Evidence of TTPI citizenship, continuous residence in the NMI since before November 3, 1981 (NMI local time), voter registration prior to January 1, 1975 and the applicant's statement that he or she did not owe allegiance to a foreign state on November 4, 1986 (NMI local time); or
- Evidence of continuous domicile in the NMI since before January 1, 1974 and the applicant's statement that he or she did not owe allegiance to a foreign state on November 4, 1986 (NMI local time).

***61364** Note: If a person entered the NMI as a nonimmigrant and lived in the NMI since January 1, 1974, this does not constitute continuous domicile and the individual is not a U.S. citizen.

D. Derivative Citizenship

If the applicant cannot present one of the documents listed in A or B above, you should make a determination of derivative U.S. citizenship in the following situations:

Applicant born abroad to two U.S. citizen parents:

- Evidence of the U.S. citizenship of the parents and the relationship of the applicant to the parents, and evidence that at least one parent resided in the U.S. or an outlying possession prior to the applicant's birth.

Applicant born abroad to a U.S. citizen parent and a U.S. non-citizen national parent:

- Evidence that one parent is a U.S. citizen and that the other is a U.S. non-citizen national, evidence of the relationship of the applicant to the U.S. citizen parent, and evidence that the U.S. citizen parent resided in the U.S., a U.S. possession, American Samoa or Swain's Island for a period of at least one year prior to the applicant's birth.

Applicant born out of wedlock abroad to a U.S. citizen mother:

- Evidence of the U.S. citizenship of the mother, evidence of the relationship to the applicant and, for births on or before December 24, 1952, evidence that the mother resided in the U.S. prior to the applicant's birth or, for births after December 24, 1952, evidence that the mother had resided, prior to the child's birth, in the U.S. or a U.S. possession for a period of one year.

Applicant born in the Canal Zone or the Republic of Panama:

- A birth certificate showing birth in the Canal Zone on or after February 26, 1904 and before October 1, 1979 and evidence that one parent was a U.S. citizen at the time of the applicant's birth; or

- A birth certificate showing birth in the Republic of Panama on or after February 26, 1904 and before October 1, 1979 and evidence that at least one parent was a U.S. citizen and employed by the U.S. government or the Panama Railroad Company or its successor in title.

All other situations where an applicant claims to have a U.S. citizen parent and an alien parent, or claims to fall within one of the above categories but is unable to present the listed documentation:

- If the applicant is in the U.S., refer him or her to the local INS office for determination of U.S. citizenship;
- If the applicant is outside the U.S., refer him or her to the State Department for a U.S. citizenship determination.

E. Adoption of Foreign-Born Child by U.S. Citizen

- If the birth certificate shows a foreign place of birth and the applicant cannot be determined to be a naturalized citizen under any of the above criteria, obtain other evidence of U.S. citizenship;
- Since foreign-born adopted children do not automatically acquire U.S. citizenship by virtue of adoption by U.S. citizens, refer the applicant to the local INS district office for a determination of U.S. citizenship if the applicant provides no evidence of U.S. citizenship.

F. U.S. Citizenship By Marriage

A woman acquired U.S. citizenship through marriage to a U.S. citizen before September 22, 1922. Ask for: Evidence of U.S. citizenship of the husband, and evidence showing the marriage occurred before September 22, 1922. Note: If the husband was an alien at the time of the marriage, and became naturalized before September 22, 1922, the wife also acquired naturalized citizenship. If the marriage terminated, the wife maintained her U.S. citizenship if she was residing in the U.S. at that time and continued to reside in the U.S.

G. Applicants With Disabilities and Nondiscrimination

If an applicant has a disability that limits the applicant's ability to provide the required evidence of citizenship or nationality (e.g., mental retardation, amnesia, or other cognitive, mental or physical impairment), you should make every effort to assist the individual to obtain the required evidence. In addition, you should not discriminate against applicants on the basis of race, national origin, gender, religion, age or disability. See Nondiscrimination Advisory, Attachment 2 to Interim Guidance.

Qualified Alien

A “qualified alien” is:

- An alien lawfully admitted for permanent residence under the Immigration and Nationality Act (“INA”);
- An alien granted asylum under section 208 of the INA;
- A refugee admitted to the U.S. under section 207 of the INA;
- An alien paroled into the U.S. under section 212(d)(5) of the INA for at least one year;
- An alien whose deportation is being withheld under section 243(h) of the INA as in effect prior to April 1, 1997, or whose removal is being withheld under section 241(b)(3) of the INA;
- An alien granted conditional entry pursuant to section 203(a)(7) of the INA as in effect prior to April 1, 1980;
- An alien who is a Cuban or Haitian entrant as defined in section 501(e) of the Refugee Education Assistance Act of 1980; or
- An alien who (or whose child or parent) has been battered or subjected to extreme cruelty in the U.S. and otherwise satisfies the requirements of §431(c) of the Act (see Exhibit B of Attachment 5).

Attachment 5—Interim Guidance—Documentary Evidence of Status as A “Qualified Alien” Eligible for Federal Public Benefits

The documents listed below (descriptions of which are provided in Exhibit A) will, when combined with satisfactory proof of identity (which will come from the document itself if it bears a photograph of the person to whom it relates), establish that an applicant falls within one of the categories of “qualified alien” for purposes of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

Under the Immigration and Nationality Act (the “INA”), all aliens over the age of 14 who remain in the United States for longer than 30 days are required to register with the Immigration and Naturalization Service (the “INS”) and obtain an alien registration document. All aliens over the age of 18 who receive a registration document are required to carry it with them at all times. With certain exceptions (e.g., Canadian visitors), aliens entering the U.S. are normally issued a registration document (e.g., an INS Form I-94) at the time of entry. The documents listed below that are registration documents are indicated with an asterisk (“*”).

Each of the documents listed below will demonstrate lawful status, and you should not require presentation of a registration document if the applicant presents one of the other legally acceptable documents that reasonably appears on its face to be genuine and to relate to the person presenting it. However, if the document presented is not a registration document and does not on its face reasonably appear to be genuine or to relate to the person presenting it, it is appropriate to ask the applicant to produce his or her registration document as additional

evidence of immigration status, so long as the request is not made for a discriminatory reason (see Nondiscrimination Advisory, Attachment 2 to Interim Guidance). ...

Alien Lawfully Admitted for Permanent Residence

- *INS Form I-551 (Alien Registration Receipt Card, commonly known as a “green card”); or
- Unexpired Temporary I-551 stamp in foreign passport or on *INS Form I-94.

Asylee

- *INS Form I-94 annotated with stamp showing grant of asylum under section 208 of the INA; ***61365**
- *INS Form I-688B (Employment Authorization Card) annotated “274a.12(a)(5)”;
- *INS Form I-766 (Employment Authorization Document) annotated “A5”;
- Grant letter from the Asylum Office of INS; or
- Order of an immigration judge granting asylum.

Refugee

- *INS Form I-94 annotated with stamp showing admission under §207 of the INA;
- *INS Form I-688B (Employment Authorization Card) annotated “274a.12(a)(3)”;
- *INS Form I-766 (Employment Authorization Document) annotated “A3”; or
- INS Form I-571 (Refugee Travel Document).

Alien Paroled Into the U.S. for a Least One Year

- *INS Form I-94 with stamp showing admission for at least one year under section 212(d)(5) of the INA. (Applicant cannot aggregate periods of admission for less than one year to meet the one-year requirement.)

Alien Whose Deportation or Removal Was Withheld

- *INS Form I-688B (Employment Authorization Card) annotated “274a.12(a)(10)”;
- *INS Form I-766 (Employment Authorization Document) annotated “A10”; or
- Order from an immigration judge showing deportation withheld under §243(h) of the INA as in effect prior to April 1, 1997, or removal withheld under § 241(b)(3) of the INA.

Alien Granted Conditional Entry

- *INS Form I-94 with stamp showing admission under §203(a)(7) of the INA;
- *INS Form I-688B (Employment Authorization Card) annotated “274a.12(a)(3)”;
- *INS Form I-766 (Employment Authorization Document) annotated “A3.”

Cuban/Haitian Entrant

- *INS Form I-551 (Alien Registration Receipt Card, commonly known as a “green card”) with the code CU6, CU7, or CH6;
- Unexpired temporary I-551 stamp in foreign passport or on *INS Form I-94 with the code CU6 or CU7; or
- INS Form I-94 with stamp showing parole as “Cuba/Haitian Entrant” under Section 212(d)(5) of the INA.

Alien Who Has Been Battered or Subjected to Extreme Cruelty

Guidance as to the requirements that must be met for an alien to fall within this category of qualified alien is set forth in Exhibit B. Note that Title IV, as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, contains provisions requiring that, upon the effective date of the new affidavit of support (required under section 213A of the Act), when determining eligibility for federal means-tested public benefits and the amount of such benefits to which an alien is entitled, the income and resources of the alien be deemed to include those of any person executing an affidavit of support on behalf of the alien and that person's spouse. Certain exceptions are made for indigent qualified aliens and for qualified aliens who (or whose children) have been battered or subjected to extreme cruelty in the U.S. by a spouse, parent or member of the spouse or parent's family and for qualified alien children whose parents have been subjected to such abuse. See Attachment 5, Exhibit B, Section II.

Expired or Absent Documentation

If an applicant presents expired documents or is unable to present any documentation evidencing his or her immigration status, refer the applicant to the local INS office to obtain documentation of status. In unusual cases involving applicants who are hospitalized or medically disabled, or who can otherwise show good cause for their inability to present documentation, and for whom securing such documentation would constitute an undue hardship, if the applicant can provide an alien registration number, you may file INS Form G-845 and Supplement, along with the alien registration number and a copy of any expired INS document presented, with the local INS office to verify status. As with any documentation of immigration status, you should confirm that the status information you receive back from INS pertains to the applicant whose identity you have verified.

Receipt for Replacement Document

If an applicant presents a receipt indicating that he or she has applied to the INS for a replacement document for one of the documents identified above, file INS Form G-845 and Supplement along with a copy of the receipt with the local INS office to verify status. Upon return receipt of information from INS, confirm that it pertains to the applicant whose identity you have verified. You should ask to see the replacement document at a later date.

Applicants with Disabilities and Nondiscrimination

If an applicant has a disability that limits the applicant's ability to provide the required evidence of immigration status (.e.g., mental retardation, amnesia, or other cognitive, mental or physical impairment), you should make every effort to assist the individual to obtain the required evidence. In addition, you should not discriminate against applicants on the basis of race, national origin, gender, religion, age or disability. See Nondiscrimination Advisory, Attachment 2 to Interim Guidance. 62 FR 61344-02, 1997 WL 709276 (F.R.) Page 33

Local INS Offices

A list of local INS offices and their addresses is set forth in Attachment 1 to the Interim Guidance. Attachment 1 also includes a copy of INS Form G-845 and the Supplement thereto to be used to verify immigration status pursuant to the Interim Guidance.

EXHIBIT A TO ATTACHMENT 5

“PINK” I-551 “RESIDENT ALIEN” CARD

FRONT: Pink background (blue header bar); blue INS seal overlaps photo area. Repeating “I-551” becomes visible when card is tilted under normal light. Expiration date on front of card: Month, day, and year.

BACK: Color gradually changes from pink to blue, with map of U.S. in white. Three lines of machine readable printing at bottom on white background. Immigrant classification and admission/adjustment date on back of card. First set of code is immigrant classification, beginning with letter(s) followed by numbers(s). Third set of code is admission/adjustment date, beginning with year, month, and day.

“WHITE” I-551 “RESIDENT ALIEN” CARD

FRONT: White background (blue header bar); salmon lines cover the photo in an unbroken pattern. Printing “detail” in eagle is excellent. Immigrant classification is on front of card in lower right corner, beginning with letter(s) followed by number(s).

BACK: Pale greenish background, map of U.S. in white. Three lines of machine readable codes. Admission/adjustment date is at bottom, left corner on back of card, beginning with year, month, and day.

UNEXPIRED FOREIGN PASSPORT WITH I-551 STAMP

An I-551 stamp may be present in a foreign passport, with a handwritten “Valid Until” date. A proof of entry and inspection stamp will also present in the passport, similar to the stamp for an I-94. Date of entry is stamped. Immigrant visa classification (letter and number) is printed or stamped on “Admitted” line. Valid status expires on date enumerated at “Until” section of I-551 stamp. The alien number may be printed beginning with letter A.***61366**

I-94 ARRIVAL/DEPARTURE RECORD

Proof of entry is signified by U.S. immigration stamp. Date of entry is stamped. Non-immigrant visa classification (letter or letter and number) is printed or stamped on “Admitted” line. Valid status expires on date enumerated at “Until” section of stamp. Refugees and asylees each receive a separate INS stamp. Asylum seekers have “valid to” date, while refugees have a date of admission.

“RED” I-688B “EMPLOYMENT AUTHORIZATION”

FRONT: White background, red header bar and yellow interlocking wavy lines, gold INS seal becomes visible when tilted under normal light. Expiration date is on front, month, day, and year.

BACK: Red outline of U.S., Alaska, and Hawaii. The word “Void” is capitalized and underlined.

“RED” I-766 “EMPLOYMENT AUTHORIZATION”

FRONT: White background, red header bar. Statue of Liberty, USA, and Immigration and Naturalization Service symbols become visible when tilted under normal light. Expiration date is at bottom, right corner. Non-immigrant category listed over justice seal by a letter and number abbreviation of the 274A.12 immigration law citation.

BACK: White background, black magnetic strip and bar code.

DECISION GRANTING ASYLUM

Documents issued to aliens, granted asylum vary.

REFUGEE TRAVEL DOCUMENT FORM I-571

Form I-571 is issued by the INS to aliens who have been granted refugee status.

ORDER GRANTING WITHHOLDING OF DEPORTATION

The documents used by immigration judges to grant withholding of deportation vary.