

NATURALIZATION: FROM EASY TO DIFFICULT CASES

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NATURALIZATION ELIGIBILITY REQUIREMENTS

- At least 18 years old
- Residency requirements
- Physical presence requirement
- Speak, read and write English
- Knowledge of U.S. history and civics
- Willing to take Oath of Allegiance
- Good Moral Character requirement

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NATURALIZATION BASICS

- When is someone eligible to apply for Naturalization after becoming an LPR?
 - 3 years (minus 90 days) if based on marriage to a U.S. citizen and remain in good faith marriage
 - Generally, 5 years in all other cases
 - * maybe different for refugee/asylee
 - * maybe different for someone in military

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RESIDENCY REQUIREMENTS

Lawful Admission as a Permanent Resident

- Eligible for LPR status? (Fraud or mistake when got status)
 - Identity (changes in name and DOB)
 - Category under which eligible for LPR status
 - Marriage fraud
- Inadmissible at initial or later admissions?

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RESIDENCY REQUIREMENTS

5 years Continuous Residence

- Breaks in Continuous Residence (Natz issue)
 - Trips over 6 months: must overcome presumption that broke CR
 - Trips over 1 year: automatic break in CR
- Abandoning Permanent Residence (Removal issue)
 - Question of intent in traveling abroad
 - Factors to consider: purpose of trip, length of trip, ties to US while gone
 - *Matter of Kane*, 15 I&N 258 (BIA 1975)
 - Exceptions – extraordinary circumstances beyond control

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PHYSICAL PRESENCE REQUIREMENT

Physical presence requirement:

- $\frac{1}{2}$ of 5 year period in the US (30 out of last 60 months)
 - INA Section 316 & 8 CFR 316.2(a)(4)
- If married to USC, $\frac{1}{2}$ of 3 year period (18 out of last 36 months)
 - INA Section 319 & 8 CFR Section 319

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