

# 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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