

PART 322—SPECIAL CLASSES OF PERSONS WHO MAY BE NATURALIZED: CHILDREN OF CITIZEN PARENT

Sec.

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AUTHORITY: 8 U.S.C. 1103, 1433, 1443, 1448.

SOURCE: 56 FR 50489, Oct. 7, 1991, unless otherwise noted.

§ 322.1 [Reserved]

§ 322.2 Eligibility.

(a) *General.* To be eligible for naturalization under section 322 of the Act, a child on whose behalf an application for naturalization has been filed by a parent who is, at the time of filing, a citizen of the United States, must:

(1) Be unmarried and under 18 years of age, both at the time of application and at the time of admission to citizenship;

(2) Reside permanently in the United States, in the physical and legal custody of the applying citizen parent, pursuant to a lawful admission for permanent residence;

(3) Be a person of good moral character, attached to the principles of the Constitution of the United States, and favorably disposed toward the good order and happiness of the United States; a child under the age of fourteen will generally be presumed to satisfy this requirement;

(4) Comply with all other requirements for naturalization as provided in the Act and in part 316 of this chapter, including the disqualifications contained in sections 313, 314, 315, and 318 of the Act, except:

(i) The child is not required to satisfy the residence requirements under §316.2 (a)(3), (a)(4), (a)(5), or (a)(6) of this chapter; and,

(ii) The child is exempt from the literacy and knowledge requirements under section 312 of the Act.

(b) *Definition of Child.* For purposes of this part,

(1) *The definition of child includes:*

(i) A legitimate child;

(ii) A child who is legitimated before the child reaches age 16 under the laws of the child's residence or domicile, or under the laws of the father's residence or domicile, whether inside or outside of the United States, if such legitimation takes place while the child is in the legal custody of the legitimating parent or parents at the time of such legitimation;

(iii) An illegitimate child if the application is being submitted by the child's natural mother; or

(iv) A child who is adopted before the child reaches age 16.

(2) *The definition of child does not include:*

(i) A stepchild; or

(ii) An illegitimate child, except as provided in paragraph (b)(1)(iii) of this section, even if the child is recognized but not legitimated by the father.

(c) *Adopted children of a parent who meets the criteria of section 319(b)(1) of the Act.* An adopted child who is in the United States at the time of naturalization is also exempt from the residence requirements of §316.2(a)(5) of this chapter if the child's adoptive citizen parent:

(1) Meets the criteria of section 319(b)(1) of the Act;

(2) Applies for naturalization of the child under section 322(c) of the Act; and

(3) Declares before the Service an intention in good faith to take up residence within the United States immediately upon termination of employment described in section 319(b)(1)(B) of the Act.

[56 FR 50489, Oct. 7, 1991, as amended at 58 FR 49913, Sept. 24, 1993]

§ 322.3 Jurisdiction for filing application.

(a) The application for naturalization under section 322(a) of the Act must be filed with the office of the Service having jurisdiction over the place of residence of the child and the child's citizen parent.

(b) An application for naturalization under section 322(c) of the Act and §322.2(c) may be filed in any office of the Service without regard to residence.