

# Paths to Citizenship

More often than you might expect, some people fill out the citizenship application, pay the fees, and study for the test only to find out that they are already United States citizens. To help clarify any confusion, we will review the basic ways that people become U.S. citizens.

## Acquired Citizenship

Everyone born in the United States is a United States citizen. The U.S. citizenship you get the day you are born is called acquired citizenship. But some people born outside of the United States are also U.S. citizens if they have at least one U.S. citizen parent. You might technically have U.S. citizenship, but that does not mean Immigration will notify you or send you a citizenship certificate. You have to figure it out for yourself and then apply for a certificate of citizenship.

### **The acquired citizenship rules change depending on:**

- The year you were born;
- If your parents were married on the day you were born; or
- If they were not married, if you are claiming citizenship through your father or through your mother.

The easiest way to determine whether you have acquired citizenship or not is to look at the Acquisition and Derivation charts from the Immigrant Legal Resources Center.

**Remember to look for the law on the day you were born!** Also, make sure to look for the appropriate chart. There is one for claiming citizenship through married parents and a separate one for claiming citizenship through a single mother or single father. The charts are long and confusing, so you definitely want to talk to a good immigration lawyer before claiming citizenship. But this should at least give you some idea as to whether or not you might be a citizen.

# Derived Citizenship

Derivative citizenship helps lawful permanent residents (LPRs) who are under the age of 18 and have at least one U.S. citizen parent. In other words, if you are a LPR under the age of 18, and your parent earns his or her citizenship, you can earn your citizenship at the same time. However, you also must be unmarried at the time.

But just like acquired citizenship, Immigration will not notify you and will not send you a citizenship certificate in the mail. You have to figure it out for yourself and then apply for a certificate of citizenship.

Once you qualify for derived citizenship, you automatically are a United States citizen and always will be. There is a common misconception that you have to apply for proof that you are a U.S. citizen before you turn 18. This is not true. You can apply for your citizenship certificate at any age. However, you must have met the requirements for derived citizenship before you turned 18.

## Recent Changes to Derived Citizenship

In 2001, the law for derived citizenship changed dramatically. As of February 27, 2001, to earn derived citizenship from within the United States, the child must:

- Have at least one parent, including an adoptive parent, who is a U.S. citizen by birth or through naturalization;
- Be under 18 years of age;
- Be a lawful permanent resident (LPR); and
- Reside in the United States in the legal and physical custody of the U.S. citizen parent.

To earn derived citizenship from outside of the United States, the child must:

- Have at least one parent, including an adoptive parent, who is a U.S. citizen by birth or through naturalization;
- be under 18 years of age;
- Reside outside of the United States in the legal and physical custody of the U.S. citizen parent, or of a person who does not object to the application if the U.S. citizen parent is deceased; and

- Be lawfully admitted, physically present, and maintaining a lawful status in the United States at the time the application is approved and the time of naturalization.

Additionally, the U.S. citizen parent or U.S. citizen grandparent must meet certain physical presence requirements in the United States or an outlying possession. The Immigrant Legal Resources Center made [a really good chart](#) that covers both the old and the new law for derived citizenship.

## **Advantages of Derived Citizenship**

Derivative citizenship can help you in two important scenarios. First, if you have many LPR children, they will all get citizenship when you become a U.S. citizen. You won't have to worry about the fees or getting a fee waiver. If they meet the requirements when you earn your citizenship, your children can apply for certificates of citizenship whenever they need.

Secondly, if your LPR child is at risk for deportation, you can help them by becoming a U.S. citizen. Often, a child becomes deportable because of a criminal conviction. Cancellation of removal is a common deportation defense. But that would require your child to prove good moral character, which is pretty hard to do with a criminal conviction. However, if you become a U.S. citizen before your LPR child turns 18, your child also becomes a citizen. This would protect them from potential deportation.

Immigration often drags its feet on your citizenship application if they do not want your child to derive citizenship. Therefore, you may need to find a good immigration attorney who can file a mandamus action in federal court. You will not be able to complete this by yourself. By law, a mandamus action forces Immigration to take action.

## **Citizenship Application**

If you do not qualify for acquired or derived citizenship, you can apply for it. It has its own list of requirements, but a good immigration lawyer can help you through the process. Learn more on our [Citizenship Application](#) article.

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