Am I a United States Citizen?

This guide was prepared and updated by the staff of the Florence Immigrant & Refugee Rights Project and was written for immigrant detainees in Arizona who are representing themselves pro se in their removal proceedings. This guide is not intended to provide legal advice or serve as a substitute for legal counsel. The Florence Project is a nonprofit legal services organization and does not charge for its services to immigrant detainees in Arizona. This guide is copyright protected but can be shared and distributed widely to assist indigent immigrants around the country. All of our guides are available to download on our website: www.firrp.org. We kindly ask that you give credit to the Florence Project if you are adapting the information in this guide into your own publication.
Important Words to Know

Immigration Law has a lot of technical words. Here’s a list of some of the words you’ll see a lot in this guide and an short explanation of what they mean.

- **Immigration Judge (“Judge”)**: this is the person who will make a decision about your case. He or she holds hearings in the courtroom and wears a black robe. This person doesn’t work for ICE. It’s her job to look at the facts of your case and apply the law fairly.

- **Immigration and Customs Enforcement (“ICE”)**: this is the agency that has put you in deportation proceedings and is in charge of detaining you. ICE is part of the Department of Homeland Security, or “DHS.”

- **Government Attorney**: this is the lawyer who represents ICE when you go to your court hearings. He or she sits at the table next to you and also talks to the Judge. It’s usually this attorney’s job to ask the Judge to order you deported.

- **Deportation**: ICE has put you in deportation proceedings, which are also called “removal proceedings.” If the Judge orders you deported or “removed” from the United States, you will be sent back to the country where you are a citizen and will not be able to return legally to the U.S. for at least ten years.

- **The Florence Project**: this is a group of lawyers and legal assistants who provide free legal help to people without lawyers. The Florence Project wrote this guide to help you understand your case.
Table of Contents

1. Overview

2. Who is a U.S. citizen?

3. Who qualifies as a “parent”?

4. U.S. Citizenship By Your Own Birth

5. U.S. Citizenship By Your Naturalization

6. Derivative Citizenship
   a. What if I was adopted by people who were born in the U.S.?
   b. What do I have to prove to show my parents were “legally separated”?
   c. How do I show that my parent(s) had custody of me?
   d. How do I apply for derivative citizenship?

7. Acquired Citizenship
   a. What is acquired citizenship?
   b. How do I know if I acquired U.S. citizenship at birth?

8. How do I get evidence of my claim to U.S. citizenship?

9. What happens after I turn in proof of my citizenship?

10. If the judge rules against me, what should I do?

11. If I make a claim for U.S. citizenship, can I or should I apply for any other relief from deportation?

12. What happens if I get out of detention before my case is decided?

13. How do I file the N-600 form and proof of my claim?

14. CITIZENSHIP CHARTS
OVERVIEW

U.S. citizens cannot be detained by Immigration and Customs Enforcement (ICE) or deported from the United States. However, the question of whether a person is a U.S. citizen can be a very complicated one. People who were born in the U.S. or its territories are automatically U.S. citizens at birth. But even if you were not born in the U.S., it is still possible that you are a U.S. citizen even though you did not know it. If so, you can avoid deportation by proving that you are a U.S. citizen to the ICE or an Immigration Judge.

This guide will help you determine whether you may have a claim to U.S. citizenship, and if so, how to prove it. It is your responsibility to gather the evidence that you need and present it to the ICE or the Immigration Judge. This guide also contains sample legal forms that you can use to show you are a citizen.

WHO IS A U.S. CITIZEN?

Under the law, there are several ways that a person may be a U.S. citizen:

- If you were born in the U.S. or one of its possessions;
- If you became a naturalized citizen of the U.S.;
- If one or both or your parents naturalized before you turned 18 years old;
- If one of your parents or grandparents were born in the U.S. or one of its possessions; or
- If you were born to a naturalized U.S. citizen parent or parents.
WHO QUALIFIES AS A “PARENT”?

Under immigration law, the term “parent” has a very specific meaning and normally refers to your biological mother or father. Depending on the year you were born, an adoptive parent may qualify as a “parent” in certain circumstances. Except in very rare situations, a stepparent who never formally adopted you does not qualify as a “parent” for purposes of proving you are a citizen. In each type of case, we will discuss whether you can make a claim through any other type of parent besides your biological parents.

U.S. CITIZENSHIP BY YOUR OWN BIRTH

You are a U.S. citizen if you were born:

- In one of the 50 U.S. states (unless your parent is a foreign diplomat), or
- In one of the following areas considered to be part of the U.S. (possessions) after the following dates:
  - Puerto Rico after January 13, 1941;
  - Virgin Islands after January 13, 1941;
  - Guam after December 24, 1952; and
  - Northern Mariana Islands after November 4, 1986.

If you were born in one of the above possessions before the dates listed, you might still be a U.S. citizen but the law is very complicated. Check with a lawyer if possible, and tell the Immigration Judge and/or ICE officer that you think you might be a U.S. citizen.

There is another category of persons who cannot be deported. They are not U.S. citizens but are U.S. nationals born in certain specified U.S. territories.
You can prove you are a U.S. citizen by birth with a certified copy of your birth certificate. If you do not have a birth certificate because you were not born in a hospital and your birth was not registered, you should try to get the following types of proof of your birth:

- Baptismal certificate;
- Certification of your birth by the doctor who attended the birth; and/or
- Affidavit from someone who attended your birth.

An “affidavit” is a written statement by a witness. This statement should include the exact date and place of your birth and how the person knows these facts. The affidavit should be signed and notarized. However, an affidavit of this type may not be enough proof of your birth so you should try to gather as much proof as you can of your birth in the U.S.

**Foundlings:** If you were found in the U.S. before the age of 5, your parents are not known, and ICE cannot disprove that you were born in the U.S. before you turn 21 years old, you may be a U.S. citizen. Tell ICE or the Immigration Judge if this is your situation and try to get a lawyer to assist you.

**U.S. CITIZENSHIP BY YOUR NATURALIZATION**

**Who is a naturalized U.S. citizen?**

You may be a naturalized U.S. citizen if you had legal permanent residency in the U.S. and you filled out an application, took a test on your knowledge of the English language and U.S. history, had an interview with INS or ICE, and took an oath of allegiance to the U.S. at a “swearing-in ceremony.”
If you remember going through this process, you should have received a naturalization certificate. If you do not have a copy but believe you are a naturalized U.S. citizen, tell ICE and/or the Immigration Judge so that ICE can check your immigration records to see if there is proof in your file of your naturalization.

**DERIVATIVE CITIZENSHIP**

How can I be a U.S. citizen through a parent or parents who became naturalized U.S. citizens?

You might be a citizen of the U.S. if one or both of your parents became naturalized U.S. citizens before you turned 18. This type of citizenship is called derivative citizenship. It means that when your parents became citizens, you “derived” or got citizenship through them. If you qualify for derivative citizenship, you should have become a citizen automatically when your parent or parents naturalized. You did not have to fill out any forms. So you may have been a U.S. citizen since your parent(s) naturalized and you never even knew it.

The following is an extremely simplified list of the normal requirements for you to derive citizenship:

1. Become a Lawful Permanent Resident before you turned 18

   AND

2. One or both of your parents naturalized before you turned 18

   AND

3. Your naturalized parent had custody of you

   **BUT, it usually is not this simple unless you were born AFTER February 27, 1983.**
If you were born BEFORE February 27, 1983

then the following rules would apply to you:

1. BOTH of your parents had to naturalize before you turned 18

   OR

2. Your parents were divorced or “legally separated,” and you were in the physical and legal custody of a parent who naturalized

   OR

3. One of your parents was deceased, and you were in the physical and legal custody of the surviving parent who naturalized

   OR

4. Your mother became a naturalized U.S. citizen and your father did not “establish paternity by legitimation” before your mother naturalized

If you derived U.S. citizenship through one of these ways, then you should obtain copies of your birth certificate, your parent(s) naturalization certificate(s), and your legal permanent residency card. Give the copies to ICE and/or the Immigration Judge.

What if I became a legal permanent resident after my parent or parents naturalized?

It does not matter in what order the requirements for derivative citizenship are met. As long as there was a single moment in which you were a lawful permanent resident living in the physical and legal custody of your U.S. citizen parent(s) before your 18th birthday, you are a derivative citizen.
What if I was adopted by people who were born in the U.S.?

If you were born before February 27, 1983 and you were adopted by one or more people who were born in the U.S., you are not a derivative citizen. If you were born after February 27, 1983 and you were adopted by one or more people who were born in the U.S., you are a derivative citizen. However, you may have to show that you were adopted before age 16. If you were adopted by parents who naturalized before you turned 18, you may be a U.S. citizen if all the necessary events occurred before October 5, 1978.

NOTE: If you were adopted, you might be able to make a claim to derivative citizenship either through your adoptive parents or through your natural parents or a combination of the two.

What do I have to prove to show my parents were “legally separated”?

“Legally separated” means that your parents went to a court of law and asked the court to recognize that they no longer wished to be together. It is a step some couples take before getting a divorce. If your parents ever were “legally separated,” there should be a document from a court ordering the separation. Also, if your parents got a divorce, they should have a document usually called a “divorce decree” from a court. You will need to obtain a copy of these types of documents to present your case for derivative citizenship through one parent if you were born before February 27, 1983.

How do I show that my parent(s) had custody of me?

When your parents separated a family court decided who should have custody over you. Ask your family if they have a copy of a document showing who had “legal custody” of you. When requesting the documents, ask for a “certified copy.” A “certified copy” is better than a regular copy because it has a stamp showing that it is a true copy.
How do I apply for derivative citizenship?

If you qualify for derivative citizenship through any of the three ways listed above, you are already a U.S. citizen and you do not need to apply for it. However, you must get proof of your citizenship to have your immigration proceedings terminated. When you have proof of your citizenship you should file an application for a certificate of citizenship or for a passport. You can apply for a certificate of citizenship with U.S. Citizenship and Immigration Services (USCIS) by filing a form called an “Application for Certification of Citizenship” (N-600) (discussed later).

**ACQUIRED CITIZENSHIP**

What is acquired citizenship?

Acquired citizenship may occur if one or both of your parents was a U.S. citizen at the time of your birth. As you have seen by reading this booklet, there are a variety of ways your parents may be citizens. The key to a claim to acquired citizenship is that one or both of your parents must have been a U.S. citizen at the time of your birth.

How do I know if I acquired U.S. citizenship at birth?

Whether you acquired citizenship at birth depends on many factors, and you will need to know the answers to the following questions:

- What is your date of birth?
- Was one or both of your parents a U.S. citizen at the time of your birth?
- Is your parent your adopted parent, your stepparent who never adopted you, or your natural parent?
- Were your parents married at the time of your birth?
• Did your U.S. citizen parent or parents reside in the U.S. before you were born? For how many years?

After you answer the above questions, you should consult the charts at the back of this booklet on pages to see if you might qualify to be a U.S. citizen.

**Acquired Citizenship: First Question - What is your date of birth?**

Over the years, the law on U.S. citizenship has changed many times. To figure out whether you are a U.S. citizen through your parent or parents, you must look at the requirements at the time of your birth. This booklet includes two charts at Appendix A, which should help you determine the things that you’ll need to prove your citizenship.

**Acquired Citizenship: Second Question - Was one or both of your parents a U.S. citizen at the time of your birth?**

If one or both of your parents was a U.S. citizen **BEFORE** you were born, you **might** be a U.S. citizen. In answering this question, remember your parent(s) could be U.S. citizen(s) under any of the types of U.S. citizenship described in this booklet. So, your parent could have citizenship by birth, by naturalization, by derivation or by acquisition too!

If your parent does not know whether he or she is a U.S. citizen through your grandparent(s), your parent should go through the same process you are going through right now to determine if he or she qualifies for acquired citizenship. For your parent to do this, he or she should ask the same five questions you are asking right now and check the charts.

In other words, if one or both of your grandparents was a U.S. citizen when your parent was born, perhaps your parent is a U.S. citizen. If so, that parent would be a U.S. citizen at the time of his or her birth, which would be before you were born. Then you could see if you are a U.S. citizen through your parent.
**Acquired Citizenship: Third Question - Is your parent your adoptive parent, your stepparent or your natural parent?**

You may have more than one set of parents. You may have a biological mother and father plus a stepmother and/or a stepfather. Your stepparent(s) may or may not have officially adopted you. In acquired citizenship, when we mention the word parent or parents, we mean biological parents. In other words, we mean your parents by blood.

**NOTE:** If you were adopted by U.S. citizen parents, you are only a U.S. citizen through the adoption if you were born after February 27, 1983 or your adoptive parents obtained a certificate of citizenship for you before your 18th birthday.

**Acquired Citizenship: Fourth Question - Were your parents married at the time of your birth?**

If your natural or biological parents were not married at the time you were born, the requirements for citizenship are different depending on whether your mother was a U.S. citizen, your father was a U.S. citizen, or both of your parents were U.S. citizens. The charts at the end of this guide will help you determine the requirements what you must show depending on whether your mother or father was the U.S. citizen.

**NOTE:** If your father was a U.S. citizen but your parents were never married, it may be difficult to show that you acquired citizenship through him. It helps if your father's name is on your birth certificate, but the court can still ask you to prove that he acknowledged you as his child in other ways too.

If your parents were not married at the time of your birth or afterward, and your father’s name is not on your birth certificate, the law may require your father to take certain steps to show that he is your father. The steps he had to take may depend on the law where he lived or where you lived and may also depend on your date of birth. The law regarding legitimation is very complicated and we cannot fully explain it here. If you meet the above requirements, you should consult with an attorney or legal agency if possible.
Acquired Citizenship: Fifth Question - Did your U.S. citizen parent or parents reside in the U.S. before you were born? For how many years?

Now that you have answered the first four questions, you will need to look at the charts to see how long your U.S. citizen parent or parents had to live in the U.S. before your birth in order for you to acquire citizenship. We call this part of the law, “residency requirements.” In most cases, you will have to show that your parent lived in the U.S. anywhere from a few days to 10 years.

HOW DO I GET EVIDENCE OF MY CLAIM TO U.S. CITIZENSHIP?

Proof for Derivative Citizenship Claims

To prove your claim to derivative citizenship you will need proof of your parent or parents’ naturalization. You should also provide a copy of your birth certificate to show that you are the child of your parent or parents. If you were born before February 27, 1983 and you are claiming through one parent rather than two, get copies of divorce, legal separation and custody documents or the death certificate of your parent who passed away. Also, you will need proof of your lawful permanent residence in the U.S. Provide all the proof to the immigration judge or the ICE.

Proof for Acquired Citizenship Claims

If you believe you have a claim to acquired citizenship because one of both of your parents was a U.S. citizen at the time of your birth, you will need proof of your parent’s U.S. citizenship at the time of your birth.

Proof of your parent’s citizenship could be:

- Birth Certificate--certificate of your parent’s birth
- Naturalization Certificate--certificate of your parent’s naturalization
- Passport--your parent may have gotten a U.S. passport before you were born; OR

©FIRRP – last update May 2013
• Certificate of Citizenship—a certificate which your parent obtained by proving a claim to U.S. citizenship through his or her parents, perhaps similar to the claim you are making now.

You also may need proof that your parent resided in the U.S. for a certain period of time. You should have looked at the charts on pages figure out what time period you must prove your parent was in the U.S. Proof of your parent’s residency in the U.S. is difficult but not impossible to gather. The following are suggested types of proof.

**FOIA Request**

It might be helpful to submit a Freedom of Information Act (“FOIA”) Request on your U.S. citizen parent or parents. Ask an Immigration Officer for a FOIA request form and the address of where to send the request. You should write a cover letter and send it with the FOIA request. If you are in ICE custody, you should tell this to the FOIA officer in your cover letter and ask the FOIA office to respond quickly.

**Parent’s school records**

Before you were born, your parent may have attended elementary, junior high, high school or college in the U.S. Ask your parent or members of your family where your parent went to school. If your parent is alive, have the parent write or call the schools to find out the process for requesting records. If your parent is not alive, you or your family members can request the records.

**Parent’s records from churches or other religious institutions**

Before you were born, your parent may have attended a particular church, temple, synagogue, etc. Your parent may have been a member of a church or other institution. Your parent may have records of his or her baptism, communion or other church ceremonies. Ask your parent for records of his or her religious involvement, or ask your parent to write for such records from
the religious organization. Also, there may be someone at the church or institution who remembers your parent and can write a letter about the parent’s attendance or membership at the church or institution. The person writing the letter should be as specific as possible about the dates your parent was involved in the church or institution and how the author of the letter knows this. Also, the letter should be notarized.

**Parent’s work records**

Your parent may have worked in the U.S. and have records of their employment, such as check receipts. Your parent can and should request a copy of their social security records. If your parent is no longer alive, an immediate family member such as yourself can request the social security records. If the parent is still alive, only he or she can request the records. To request social security records, we have enclosed at the back of this booklet as Attachment F a sample form you can use. It is Form SSA-7004-SM. If you are able to make a copy of this form, follow the instructions given on the form. If not, write to the following address and request FORM SSA-7004-SM (Request for Social Security Statement).

Social Security Administration  
Wilkes-Barre Data Operations Center  
P.O. Box 7004  
Wilkes-Barre, PA 18767-7004  

We strongly recommend that you or your parent request these records. They can be very good proof of the years your parent was in the U.S.

**Parent’s tax returns**

If your parent worked in the U.S. during the years you need to prove that he or she was in the U.S., the parent may have filed income tax forms. Your parent or family may have copies of such forms. If not, your parent can request a copy of the forms from the Internal Revenue Service. To make the request, fill out Form 4506 (“Request for Copy of Tax Return”) and Form 4506-T (“Request for Transcript of Tax Return”) and send them to the IRS.
**Census Records**

Your U.S. citizen parent may have been counted in a census survey in the U.S. at some point in their lives before your birth. A census survey is done by the U.S. Census Bureau every 10 years and is a way of counting the population in a country. If your U.S. citizen parent was ever counted in a survey, proof of the survey is some evidence that the parent was present in the U.S. in the year or years counted. Census records can be very difficult to obtain and sometimes you will need to pay for copies of the records. For these reasons, you may want to concentrate on getting the other forms of proof.

If you want to prove your parent was in the U.S. after 1920, the census records are more difficult to obtain. The records are confidential and are not available to the public. But, your parent can request census records about him or herself. If your parent is deceased and if you are a legal heir of your parent, you can request the records yourself. The problem is that you have to pay for the records, and the cost could be $40 or more just to request records for a particular year. Also, you have to say which year you want to know about. If you are not sure when your parent was in the U.S., you may be interested in several years. You will have to pay for each year that the Census Bureau searches its records. Finally, you must know your parent’s address at the time your parent may have been counted in a census. If you decide to request census records for any years after 1920, you can obtain an application form from:

Personal Census Search
Unit
U.S. Census Bureau
Box 1545
Jeffersonville, IN 47131
(812) 218-3046

OR

History Staff
U.S. Census Bureau
Washington, DC 20233
(301) 457-1167

While census records may be helpful, keep in mind it is not certain that your parent has ever been included in a census survey and it may take a lot of resources to make the request.
Rent Records or Home Ownership Records

Your parent may have paid rent or owned a house during the years you are interested in proving that the parent was living in the U.S. The following are good proof of your parent’s presence in the U.S.: copies of rental agreements, leases, rent receipts, house payments or home ownership documents. If your parent was a renter but has no records of this, perhaps the landlord is still alive and could write a letter stating that your parent rented from him or her and should state the exact years your parent paid rent. Again the letter should be signed and notarized.

Military or Draft Records

Your parent may have served in the U.S. military during the years you want to prove he or she was in the U.S. If your parent is alive, the parent must be the one to request copies of his or her military records. If your parent is deceased, you or an immediate family member can request the records. To request military records use Form 180, Request Pertaining to Military Records. Follow the instructions on the form, which tell you where to send your request and the information to include in the request.

If you are trying to prove citizenship through your father, he may have registered for the Selective Service. All men who are U.S. citizens or legal permanent residents and over 18 years of age are required to register to serve in the military in the case of war. Your father might have registered only once or he may have registered several times. Your father can request his records. If your father is no longer alive, you can request copies of his records. To see if your father registered, you or a family member can call 1-847-688-6888. You must know your father’s birthdate and his social security number.

Affidavits from Witnesses

Perhaps your parent has friends or community members who were acquainted with your parent in the U.S. during the years you want to prove your parent was in the U.S. You or your family could request that such
witnesses write “affidavits” stating:

- The exact years they knew your parent
- How they knew your parent
- Where your parent was during those years (city, state, address if known)
- Any other specific information they remember about your parent such as your parent’s type and place of employment, school attendance, or church attendance.

The affidavit must be signed and notarized. It also must be written in English.

**NOTE:** Remember, everything that you give to ICE or the Immigration Judge has to be in English or has to be translated into English. If a letter or other document is not in English, you need to find someone to translate it. At the end of the translated document or letter, the person who translated it should put the following:

I, *(name of translator)*, certify that I am competent to translate this document and that the translation is true and accurate to the best of my abilities.

*(signature of translator) (date)*

**What is the best kind of proof?**

ICE may say that affidavits from friends, family members or acquaintances who knew your parent when he or she lived in the U.S. before your birth are not enough proof. For this reason, you should try to get some “official” proof of the years your parent lived in the U.S. For example, the best kinds of proof are social security records, military records, work records and school records.

**How much proof is enough?**

You can never have enough proof. Gather as much proof as you can. Remember that you only need proof of your parent’s years in the U.S. that
are required for your case. Your parent may have been in the U.S. for a very long time, longer than you need to prove. You need to show your U.S. citizen parent was here for a number of years before you were born. Proving the years your parent was here after you were born will not help you!! By looking at the charts, you should be able to figure out what years you need to prove your parent was in the U.S.

REMEMBER: The years that your U.S. citizen parent was in the U.S. do not have to be continuous or all in a row. You can use a period of years, skip some years and start over.

WHAT HAPPENS AFTER I TURN IN PROOF OF MY CITIZENSHIP?

Once you give the Immigration Judge proof of your citizenship claim, the Judge will decide whether your claim is strong enough to “terminate” your immigration proceedings. This means ICE can no longer try to remove you from the U.S. If you are in immigration proceedings and the Judge “terminates” the proceedings against you, you should immediately ask the Judge for your release on your own recognizance from ICE custody. This means that you do not have to pay a bond.

IF THE JUDGE RULES AGAINST ME, WHAT SHOULD I DO?

If the judge rules against you, you have three possible options:

- You can accept the judge's decision and accept an order of removal;
- You can accept the judge's decision but ask for voluntary departure; or
- You can decide not to accept the judge's decision and “reserve” your right to file an appeal.

Please look at the Florence Project guide to BIA appeals and Ninth Circuit appeals if you decide to continue fighting your case.
If I make a claim for U.S. citizenship, can I or should I apply for any other relief from deportation?

It is usually a good idea to apply for (or raise) every possible defense you may have to being deported or removed from the U.S. You may think you have a great case for citizenship, but you could be wrong. You might lose your citizenship case but win another type of relief from deportation, so try to find out for what else you may qualify. For those in immigration proceedings, there should be booklets available in your detention center on the other possible forms of “relief” from deportation.

WHAT HAPPENS IF I GET OUT OF DETENTION BEFORE MY CASE IS DECIDED?

If you are allowed to leave the detention center before your case is over, your case continues. If you are in Immigration Court proceedings, you will have future court dates. Even though it is ICE’s responsibility to notify the court of your address if you are released, you should file a change of address form to notify them of your new address. You can also call 1-800-898-7180 on a regular basis to find out when and where your next court date will be held. Remember, if you miss a hearing, the judge will order you removed from the U.S. even if you have a claim to U.S. citizenship!

HOW DO I FILE THE N-600 FORM AND PROOF OF MY CLAIM?

Proving to the immigration judge or to an ICE official that you are a U.S. citizen may mean that you are no longer in immigration proceedings, but it does not necessarily give you proof of your U.S. citizenship such that you can work or leave the U.S. If you are claiming citizenship through your parent or parents, you should fill out and file an N-600 form, which is an application for a Certificate of Citizenship. You can also apply for a U.S. passport instead of a Certificate of Citizenship as proof of citizenship; however, it is usually very difficult to apply for a passport if you are detained. If you are claiming U.S. citizenship through your own birth in the U.S., then you do not need to file an N-600 form.
To file the N-600 form you must provide USCIS with the following:

- The original N-600 form;
- Three identical, passport-style photographs of yourself;
- A fee of $600; and
- Proof of your claim to citizenship (as discussed previously).

**Should I make copies of these forms after I fill them out?**

Yes, you should always keep a copy of any form that you give to ICE or the Immigration Judge.

**DON’T BE AFRAID**

People who are in immigration proceedings do get issued Certificates of Citizenship and/or have the immigration proceedings against them terminated. Preparing your case is a lot of work, but the more you prepare, the better chance you have of winning your case.