RISK ASSESSMENT FOR NATURALIZATION APPLICANTS

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[1] The advisory is intended for authorized legal counsel and is not a substitute for independent legal advice provided by legal counsel familiar with a client's case. Counsel should independently confirm whether the law has changed since the date of this publication. The authors of this practice advisory are Alison Kamhi, Immigrant Legal Resource Center Legal Program Director; Michelle N. Méndez, National Immigration Project Director of Legal Resources and Training; Josette Ramirez, Catholic Legal Immigration Network, Inc. (CLINIC) Training & Technical Assistance Staff Attorney; and Charles Wheeler, CLINIC Training & Technical Assistance Director Emeritus. The authors would like to thank National Immigration Project Senior Staff Attorney Rebecca Scholtz for her careful review and valuable feedback.

I. Introduction

For many noncitizens, naturalization is the best defense against deportation from the United States. Indeed, the Department of Homeland Security (DHS) lacks the authority to detain or deport a U.S. citizen. However, filing a Form N-400, Application for Naturalization, can be risky for some individuals because it can instigate immigration enforcement. This concern has increased following President Trump's February 28, 2025 policy memorandum, "Issuance of Notices to Appear (NTAs) in Cases Involving Inadmissible and Deportable Aliens," which requires U.S. Citizenship and Immigration Services (USCIS) to issue Notices to Appear (NTA) when the agency denies an immigration benefit and believes the applicant is deportable.[2] Lawful permanent residents (LPRs) are vulnerable to denial of their N-400 and placement into removal proceedings if they:

- obtained their LPR status without complying with all the eligibility requirements;
- have been convicted of certain crimes after obtaining LPR status;
- have abandoned their LPR status;
- or are otherwise deportable.

USCIS may also deny N-400s filed by LPRs who have not complied with the continuous residence requirements or have committed certain "unlawful acts," although unless they are deportable for other reasons, USCIS would not issue them an NTA.

This practice advisory summarizes the most common reasons why USCIS may deny an N-400, provides guidance for ways to screen and avoid an N-400 denial and removal proceedings, and discusses immigration relief options in immigration court.

II. Eligible for LPR Status

Before filing an N-400, it is important to ensure that the client was eligible for LPR status at the time it was granted. Naturalization officers are under instructions to investigate[3] whether the applicant was entitled to adjust status or immigrate when they did. They will examine whether the applicant: (a) qualified based on the underlying diversity visa, employment-based visa, family-based petition, or humanitarian relief petition or application; (b) was admissible or otherwise eligible; and (c) complied with the applicable requirements of adjustment or consular processing at time of adjudication.[4]

Tip: A review of the client's documents and an interview with the client will help confirm whether the client properly qualified for LPR status. As part of the interview, one of the first questions you should ask a client who is seeking to naturalize is how they became an LPR.

[2] USCIS Policy Memo #PM-602-0187, "Issuance of Notices to Appear (NTAs) in Cases Involving Inadmissible and Deportable Aliens" (Feb. 28, 2025) [hereinafter "NTA Memo"].
[3] 12 USCIS Policy Manual [hereinafter "USCIS-PM"] D.2.
[4] *See, e.g.*, INA §§ 245(a), (c).

A. Eligible

If the applicant received LPR status through a family member, make sure it was a valid relationship for immigration purposes. Below are examples of common family relationships for immigration purposes, but this is a non-exhaustive list.[5] For example, if the applicant immigrated as the "child" or "son or daughter" of an LPR parent, they had to be unmarried.[6] There is no category for married children/sons/daughters of LPRs. While derivative children in the family-based first, third, or fourth preference categories must only be unmarried on the date they immigrate, principal and derivative children in the second preference category must never have married prior to immigrating. If they were married or were ever married, double check the date of the marriage and compare it to the date they adjusted status or immigrated. Similarly, if the applicant immigrated as the child/son/daughter of a U.S. citizen, perform the same analysis to ensure they adjusted through the correct category.[7] Remember that the applicant must have retained their unmarried child/son/daughter status from the date of the approval of their immigrant visa application by the U.S. consulate to the time they are admitted into the United States by Customs and Border Protection as an LPR.

Cases that benefited from the Child Status Protection Act (CSPA)[8] also require investigation. If the applicant immigrated as a principal or derivative child, and their biological age at the time was 21 years or over, calculate their adjusted age pursuant to the CSPA to ensure that they were under 21 on the date they adjusted or immigrated. Make sure they also "sought LPR status" within one year of the petition approval or priority date becoming current, whichever is later.

If the applicant obtained their LPR status as the derivative spouse of a refugee or asylee, verify that it was a valid marriage before the principal obtained refugee or asylee status.[9] The opposite is also true: If the applicant is a refugee or asylee who claimed to be unmarried at the time they were granted asylum or entered as a refugee, ensure that they were in fact not married.[10] This is especially true for persons whose Form I-590, Registration for Classification as a Refugee, was granted but who then subsequently married before entering the United States. While such an act does not automatically make them ineligible for asylum or refugee status, one would need to look at the basis for their underlying claim to see whether their marital status was a factor. If marriage was a factor in the Form I-590 grant but the person then married someone else before coming to the United States, this may trigger a fraudulent marriage claim. The false claim of being unmarried also opens the applicant up to a possible finding of fraud if the misrepresentation is found to be material.[11]

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[5] If there is any doubt as to the validity of the family relationship for immigration purposes, consult a legal expert on family-based immigration law.
[6] 8 CFR §§ 205.1(a)(3)(G), (I).
[7] 8 CFR § 205.1(a)(3)(i)(H).
[8] 7 USCIS-PM A.7.
[9] 4 USCIS-PM C.2.
[10] *Id.*
[11] 8 USCIS-PM J.2.

While marriage prejudices some family-based petitions, divorce prejudices other ones. Divorce revokes a spousal petition,[12] so verify that the parties were still married at the time the I-130, Petition for Alien Relative, was approved. Check whether the marriage was valid in the jurisdiction where it took place: both parties were single at the time of the marriage; if one party had been married previously, the divorce was finalized before their current marriage; it was a bona fide and not a sham marriage; and the parties were at least 18 years of age. If either of the parties were under 18, make sure the marriage complied with the requirements both in the jurisdiction where it occurred and the state in the United States where the parties reside (e.g., parental consent).

Clients who obtained LPR status through a parent-child relationship to a U.S. citizen are not immune from USCIS investigation. If the naturalization applicant was born out of wedlock and immigrated as the child/son/daughter of an LPR or U.S. citizen father, make sure the person complied with any legitimation requirements before turning 18 or provide proof of parent-child relationship before turning 21.[13] If the applicant immigrated as a stepchild or stepparent of a U.S. citizen, make sure the necessary marital relationship existed before the stepchild turned 18.

Death of the petitioner is also a material event and can affect the beneficiary's eligibility.[14] If the petitioner died before the client obtained LPR status, it is important to find out whether the applicant reinstated the petition pursuant to INA § 204(l) so that the application could proceed.[15]

If the naturalization applicant received status through a different path, such as through special immigrant juvenile status,[16] U nonimmigrant status (the U visa),[17] T nonimmigrant status (the T visa),[18] the Violence Against Women Act (VAWA),[19] or other means, it is equally important to ensure the applicant was in fact eligible at the time of receiving their green card or that USCIS has not revoked the underlying approved petition of application.

[12] 8 CFR § 205.1(a)(3)(i)(D).
[13] 6 USCIS-PM B.8.
[14] 8 CFR § 205.1(a)(3)(i)(B).
[15] 7 USCIS-PM A.9.
[16] INA § 101(a)(27)(J); 6 USCIS-PM J.
[17] INA § 101(a)(15)(U); 3 USCIS-PM C.2.
[18] INA § 101(a)(15)(T); 3 USCIS-PM B.
[19] INA § 204(h); 3 USCIS-PM D. Note that men are also eligible for VAWA despite the name of this benefit.

B. Admissible

The most common grounds of inadmissibility are prior immigration violations;[20] fraud or misrepresentation;[21] crimes;[22] and smuggling.[23] This practice advisory will not define or even summarize these grounds. It will only suggest looking into whether the client ever:

- Accrued any unlawful presence after April 1, 1997, and then departed the United States;
- Accrued one year or more of unlawful presence followed by a departure and subsequent reentry without inspection;
- Was deported or removed from the United States, including expedited removal;
- Tried to enter the United States with a false document;
- Entered the United States without inspection accompanied by another person;
- Provided any meaningful assistance to allow another person, including a family member, to enter the United States illegally; and/or
- Was convicted of any crime.

If any of these occurred, do a further analysis to determine if the client was inadmissible or otherwise ineligible at the time of obtaining LPR status and whether they obtained a necessary waiver.

C. Complied with INA §§ 245(a) or (i), if applicable

Naturalization applicants who adjusted status under INA § 245(a) must have been inspected and admitted or paroled into the United States.[24] For those who adjusted in one of the preference categories, they must have maintained their lawful immigration status until the date of filing Form I-485, Application to Register Permanent Residence or Adjust Status.[25] This means they must not have overstayed the period of authorized stay on their I-94, Nonimmigrant Arrival Departure Document. It also means that they must not have worked without a USCIS work permit (Employment Authorization Document). Employment is defined as "any service or labor performed by an employee for an employer within the United States, including self-employment…."[26] Even nonimmigrants who are self-employed would be considered as "working" if they receive any monetary benefit from it. One common example of work that people may not consider as such is babysitting or taking care of another person in exchange for money.

The requirements for adjustment under INA § 245(i) are more complicated.[27] Common issues to look for include whether: the underlying petition that was filed on or before April 30, 2001 was "approvable," which usually means the family-based relationship or labor certification was

[20] INA § 212(a)(9).
[21] INA § 212(a)(6)(C).
[22] INA § 212(a)(2).
[23] INA § 212(a)(6)(E).
[24] INA § 245(a); 7 USCIS-PM B.
[25] INA § 245(c).
[26] 8 CFR § 274a.1(h).
[27] 7 USCIS-PM C.

valid for immigration purposes; the relationship between the principal beneficiary and the derivative spouse or child was formed on or before April 30, 2001; and an after-acquired derivative adjusted in the same preference category as the principal applicant.

It is equally important to ensure that applicants who consular processed or adjusted under other provisions (such as INA §§ 245(j) (employment-based), 245(m) (U visa-based), 245(l) (T visa-based), or 245(h) (special immigrant juvenile status-based) met all the requirements at the time of adjudication.

III. Convictions After Becoming an LPR

LPRs with certain criminal convictions face likely denial of the N-400 and placement into removal proceedings. The February 28, 2025 Policy Memo "Issuance of Notices to Appear (NTAs) in Cases Involving Inadmissible and Deportable Aliens" states that "USCIS will issue an NTA against removable [noncitizens] if they have been arrested, charged with, or convicted of a criminal offense if the benefit request is denied or withdrawn."[28] Alternatively, if USCIS does not issue an NTA, USCIS will refer "cases involving criminal conduct, arrests, or convictions" to Immigration and Customs Enforcement (ICE) for an enforcement action determination that includes an investigation into whether to issue an NTA.[29] In the N-400 context, USCIS will likely take one of these two actions if an LPR has a conviction that renders them deportable.

An LPR is deportable if they were convicted of a crime listed under INA § 237. Convictions are defined in INA § 101(a)(48)(A) as "a formal judgment of guilt of the [noncitizen] entered by a court or, if adjudication of guilt has been withheld, where— (i) a judge or jury has found the [noncitizen] guilty or the [noncitizen] has entered a plea of guilty or nolo contendere or has admitted sufficient facts to warrant a finding of guilt, and (ii) the judge has ordered some form of punishment, penalty, or restraint on the [noncitizen]'s liberty to be imposed."[30]

Conviction-based grounds of deportability include those for criminal offenses, immigration violations,[31] and security grounds.[32] The more common conviction-based criminal grounds of deportability include aggravated felony convictions, crime of moral turpitude convictions, controlled substance offense convictions, domestic violence/stalking/child abuse convictions,

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[28] NTA Memo.

[29] *Id*.

[30] *See also* 12 USCIS-PM F.2; ILRC, What Qualifies as a Conviction for Immigration Purposes? (Apr. 15, 2019), https://www.ilrc.org/resources/what-qualifies-conviction-immigration-purposes; National Immigration Project, The INA's Distorted Definition of "Conviction" (May 14, 2021), https://nipnlg.org/work/resources/inas-distorted-definition-conviction.

[31] Examples of this category include failure to register or falsification of documents, high speed flight from immigration at a checkpoint conviction, and holding or harboring a noncitizen for prostitution or any other immoral purpose conviction. INA §§ 237(a)(3)(B), 237(a)(2)(A)(iv), 278.

[32] Security grounds refers to INA § 237(a)(2)(D) ("Any [noncitizen] who at any time has been convicted (the judgment on such conviction becoming final) of, or has been so convicted of a conspiracy or attempt to violate…[espionage, sabotage, selective service, threats against the President and successors, foreign espionage trainee registration, trading with the enemy, treason or sedition, and convictions under Neutrality Law and under the Foreign Agent Registration Act]").

firearms or destructive device convictions, and sex offender registration convictions.[33] If after obtaining LPR status, an LPR was convicted of one of these crimes, the LPR is subject to a conviction-based ground of deportability.

Certain criminal convictions will lead USCIS to deny an N-400 based on a lack of good moral character (GMC) during the relevant period (usually 5 years), one of the naturalization eligibility requirements. GMC means character which measures up to the standards of average citizens of the community in which the applicant resides.[34] INA § 101(f) lists actions, including criminal actions that have resulted in convictions, that prevent an N-400 applicant from establishing GMC. However, an N-400 applicant who does not have a conviction for an offense listed under INA § 101(f) may still lack GMC based on a conduct-based bar, such as reason to believe the person was a drug trafficker, alien smuggling, or an admission of a crime involving moral turpitude or controlled substances offense. Even if they do not fall within a statutory bar to good moral character, they could still be found not to have established GMC because "the fact that any person is not within any of the foregoing classes [listed under INA § 101(f)] shall not preclude a finding that for other reasons such person is or was not of good moral character." INA § 101(f) therefore provides USCIS the discretionary authority to deny an N-400 application based on any criminal conviction. Although an N-400 applicant must establish GMC throughout the requisite period of continuous residence in the United States,[35] USCIS may consider the applicant's acts and convictions prior to the requisite time period in its GMC analysis.[36] The requisite periods of continuous residence in the United States are either five years prior to the date of filing[37] or three years prior to the date of filing for certain spouses of U.S. citizens.[38] Note that some circuits have held that the applicant's behavior before the statutory period cannot be the only reason to deny naturalization as a discretionary matter.[39]

USCIS obtains criminal conviction evidence in a couple of ways.[40] First, USCIS will obtain criminal conviction evidence from the applicant as part of the N-400 application package. The

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[33] INA §§ 237(a)(2)(A), (B), (C), (D), (E).

[34] *See* 8 CFR § 316.10(a)(2).

[35] The requisite periods of continuous periods are discussed below in Section VII.

[36] *See* INA § 316(e); 8 CFR § 316.10(a)(2).

[37] *See* INA § 316(a); 8 CFR § 316.2(a)(7).

[38] *See* INA § 319(a); 8 CFR § 319.1(a)(7).

[39] *See e.g.*, *Santamaria-Ames v. INS*, 104 F.3d 1127, 1130 (9th Cir. 1996) ("If he has had stellar behavior within the good moral character period, then the earlier conviction can't be used to deny good moral character, even as a discretionary matter."); *Pignatello v. Att'y Gen. of U.S.*, 350 F.2d 719, 725 (2d Cir. 1965); *Marcantonio v. U.S.*, 185 F.2d 934, 936–37 (4th Cir. 1950); *Petition of Zele*, 140 F.2d 773, 776 (2d Cir. 1944).

[40] According to the February 28, 2025, Policy Memo, when issuing the NTA, USCIS must support the crime-based deportability charge listed on an NTA with conviction records that comply with 8 CFR § 1003.41(b). NTA Memo. That regulation, in turn, cross references 8 CFR § 1003.41(a) and 8 CFR § 287.6(a). 8 CFR § 1003.41(a) discusses six types of documents or records that are admissible as evidence in proving a criminal conviction. To qualify as acceptable proof of a domestic official record, 8 CFR § 287.6(a) requires that the document be an official publication or "a copy attested by the official having legal custody of the record or by an authorized deputy." Reading together these three regulatory provisions allows LPR applicants to determine if USCIS has adequately supported a crime-based deportability charge on an NTA.

N-400 asks several questions about crimes. N-400 applicants who answer "Yes" to the questions regarding crimes must state the result or disposition of the arrest and submit evidence to support the answers to the questions. Second, USCIS may issue a Request for Evidence (RFE)[41] prior to adjudicating the N-400.[42] The RFE will generally request certified conviction documents that are relevant to the N-400. Given the discretionary nature of the GMC requirement, most or all convictions will likely be deemed by USCIS to be relevant to the N-400.

Prior to filing the N-400, LPRs with criminal issues must know if the criminal issue has resulted in a conviction for immigration purposes. LPRs with convictions should assess if these convictions render them deportable under INA § 237 or are likely to affect the GMC determination. LPRs with convictions should understand that if USCIS decides to initiate removal proceedings against them based on their criminal record, USCIS has a statutory burden to prove crime-based deportability. Often, the crime-based deportability evidence will derive from the LPR themselves, as discussed above.

IV. Other Acts of Misconduct After Becoming an LPR

LPRs with acts of misconduct that did not lead to a conviction could still face a possible denial of the N-400 and removal proceedings. LPRs can be deportable for conduct-based grounds as well, including smuggling, unlawful voting, fraudulent marriage, failure to notify DHS of a change of address, and more.[43] As previously discussed, LPR applicants must establish GMC during the requisite period of continuous residence in the United States. The USCIS Policy Manual instructs that "[a]ny conduct or act that offends the accepted moral character standards of the community in which the applicant resides should be considered without regard to whether the applicant has been arrested or convicted of an offense."[44] The statutory language of INA § 101(f) also supports USCIS's authority to consider other acts of misconduct in the GMC assessment. INA § 101(f) includes a broad list of conduct that is not limited to crimes that resulted in convictions. For example, a person who qualifies as a "habitual drunkard" and someone "whose income is derived principally from illegal gambling activities" both lack GMC. Recall also the INA § 101(f) provision that states that "the fact that any person is not within any of the foregoing classes [listed under INA § 101(f)] shall not preclude a finding that for other reasons such person is or was not of good moral character." In other words, USCIS officers are not limited to the conduct listed in INA § 101(f) in assessing GMC. Indeed, case law has recognized other examples of unlawful acts that bar GMC. For example, insurance fraud[45] and unlawful harassment[46] are unlawful acts that courts have used to deny GMC. Whereas some of the "unlawful acts" might not bar GMC per se because they were committed outside of the

[41] *See* 1 USCIS-PM E.6, F.
[42] USCIS does not have authority to issue an RFE once it has already adjudicated the benefit at issue. *See generally* 8 CFR §§ 103.2(b)(8), (b)(11).
[43] INA §§ 237(a)(1)(E), (a)(1)(E), (a)(6), (a)(3)(A).
[44] *See* 12 USCIS-PM F.1.
[45] *See United States v. Salama*, 891 F. Supp. 2d 1132, 1140-41 (E.D. Cal. 2012).
[46] *See Sabbaghi v. Napolitano*, 2009 WL 4927901 (W.D. Wash. 2009) (unpublished).

statutory period, they could still make the person deportable, such as where someone has voted unlawfully.[47] Therefore, beyond convictions, an LPR may also lack GMC due to criminal conduct or unlawful acts and, in turn, face a denial of the N-400.[48]

It is important to know how USCIS obtains evidence of acts of misconduct. USCIS will obtain evidence of acts of misconduct in a variety of ways, including: 1) "Yes" responses to questions on the N-400, 2) testimony during the naturalization interview, 3) court dispositions or, if none is available, original or certified confirmation that the record is not available from the applicable law enforcement agency or court, 4) arrest records, 5) biometrics-based checks and other databases, and 6) investigations by USCIS. The N-400 includes a series of questions regarding criminal conduct and other acts of misconduct. For example, question 15.a asks about crime committed for which the applicant was not arrested while questions 17.a through 19 ask about myriad acts of misconduct. During the naturalization interview, the USCIS officer is supposed to "elicit a complete record of any criminal, unlawful, or questionable activity in which the applicant has ever engaged regardless of whether that information eventually proves to be material to the GMC determination."[49] The USCIS officer is also supposed to take a sworn statement from an applicant when the applicant admits committing an offense for which the applicant has never been formally charged, indicted, arrested or convicted.[50] The USCIS Policy Manual gives USCIS offices the authority to request a court disposition for any criminal offense committed in the United States or abroad to properly determine whether the applicant meets the GMC requirement.[51]

Although the USCIS Policy Manual provides a list of specific circumstances in which an applicant must provide a certified court disposition for arrests involving, the N-400 instructions seem to require records in a broader array of circumstances.[52]

Finally, given the discretionary nature of GMC assessments, USCIS may request any additional evidence that may affect a determination regarding the applicant's GMC. When it comes to arrest-based unlawful acts, USCIS officers often exercise their discretion to request arrest records as additional evidence.

Ultimately, it is critical to screen the naturalization applicant to ensure there is nothing in their past - conviction or otherwise - that could make them deportable.

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[47] Because the term "unlawful acts" appears in the regulations and not in the statute, they should not impose a bright line bar to naturalization. While case law indicates that all these factors should be considered in totality, on balance with the good factors in a person's case, USCIS Policy Manual current instructs officers only to apply a balance test within the Ninth Circuit. 12 USCIS-PM F.5(L)(2). In other circuits, it will apply a different test, requiring a showing of "extenuating circumstances" to offset certain unlawful acts that are not included in the statute. 12 USCIS-PM F.5.

[48] *See* INA § 318.

[49] 12 USCIS-PM F.3.

[50] *See* 8 CFR § 316.10(b)(2)(iv).

[51] *See* 12 USCIS-PM F.3.

[52] See pages 21-22 of the N-400 instructions (Jan. 20, 2025), https://www.uscis.gov/sites/default/files/document/forms/n-400instr.pdf.

V. Risk of Enforcement If Found Deportable

All deportable applicants should expect an NTA if they apply to naturalize. According to the USCIS Policy Manual, if a USCIS officer finds that a naturalization applicant is deportable, DHS issues an NTA where issuance would be in accordance with established guidance.[53] The current established guidance, the February 28, 2025, Policy Memo "Issuance of Notices to Appear (NTAs) in Cases Involving Inadmissible and Deportable Aliens," states that "USCIS will no longer exempt classes or categories of removable [noncitizens] from potential enforcement, which includes referring cases to ICE and issuance of NTAs."[54] This is a change in policy from the prior Biden Administration where deportable applicants with strong positive equities were occasionally approved for citizenship and, even if denied, generally not issued an NTA. Although the Feb. 28, 2025, Policy Memo acknowledges that USCIS may exercise prosecutorial discretion in limited circumstances, it remains to be seen what those limited circumstances encompass.[55]

> **Example:** In 2010, Georg got his green card. In 2012, Georg pled guilty to possession of cocaine. This conviction is a deportable controlled substances offense. It does not bar him from naturalizing because his conviction is not a permanent bar (it is not an aggravated felony) and it is not a statutory bar because it occurred before the good moral character time period (five years, or three years if he was applying as the spouse of a U.S. citizen). In some circuits, if he has had stellar behavior within the good moral character period, then the earlier conviction cannot be used to deny good moral character, even as a discretionary matter.[56] However, the conviction does make him deportable. Under any administration, Georg should be warned that he could be placed in proceedings for being deportable and subjected to detention with no eligibility for an IJ bond hearing. Under this administration, Georg should expect an NTA and detention. While USCIS could exercise prosecutorial discretion in Georg's case if his case reflects strong equities, there is no guarantee that USCIS will do so.

Practitioners should screen clients thoroughly to make sure their clients are not deportable before filing an N-400. For clients who have already filed applications and may be deportable, a withdrawal will not protect them from an NTA. In these cases, clients should assess back-up forms of relief described in the following section.

VI. Potential Remedies If USCIS Finds That the Naturalization Application Is Deportable

If a naturalization applicant is denied, detained, and placed in removal proceedings on account of alleged deportability, there may be several options to defend against deportation or apply for

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[53] 12 USCIS-PM D.2.

[54] NTA Memo.

[55] *Id*.

[56] *See, e.g.*, *Santamaria-Ames v. INS*, 104 F.3d 1127, 1130 (9th Cir. 1996).

relief from removal.[57] This section will summarize a few common remedies, but this is not an exhaustive list.

A. Contesting Removal and Terminating Proceedings

For noncitizens subject to the grounds of deportability, the burden is on the government to prove by clear and convincing evidence that the individual is removable.[58] If the government alleges that an individual is deportable, the individual can hold the government to its burden to prove the deportability. In some instances, the burden of proof will make all the difference. For example, if an LPR is convicted under a statute of conviction that is divisible, where it lists at least one crime that triggers a deportation ground and one that does not, then the government has the burden to show that the respondent was convicted of the deportable offense.

Regarding LPRs who face an allegation that they abandoned their status, the burden is also on the government. Usually, LPRs are exempt from establishing that they are admissible when they return from a trip abroad. However, if the government places an individual in proceedings for allegedly abandoning their green card, the government will treat that LPR as seeking admission and charge them in the NTA with ground(s) of inadmissibility under INA § 212. The grounds of inadmissibility are generally broader than the grounds of deportability, so it is less advantageous to face grounds of inadmissibility. Moreover, LPRs charged as an applicant for admission are ineligible for an Immigration Judge (IJ) bond hearing. Despite inadmissibility applying to LPRs in this context and the harmful detention consequences of being charged as an applicant for admission, the government has the burden to prove by clear and convincing evidence that the LPR is properly charged as seeking admission.[59]

The person can hold the government to its burden in immigration court by denying the charges of deportability on the NTA and any factual allegations that are incorrect. If the government cannot meet its burden, the IJ must terminate the case[60] and the LPR remains an LPR. However, if the government meets its burden of proof, the person must look to available forms of relief from removal. When applying for relief from removal, the burden of proof is on the noncitizen to prove eligibility.[61] Note that Congress has added or increased the fee for many applications and petitions for relief and appeals to the BIA discussed below.[62] Given these significant fee increases, practitioners and their clients should plan well in advance to ensure

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[57] Note that the 2024 Department of Justice regulation on efficient case and docket management in immigration proceedings explicitly provides for termination based on prima facie naturalization eligibility, although the regulation also says that the motion should not be granted if DHS opposes it. 8 CFR § 1003.18(d)(1)(ii).

[58] INA § 240(c)(3)(A); 8 CFR § 1240.8(a).

[59] *Matter of Rivens*, 25 I&N Dec. 623, 625–26 (BIA 2011).

[60] 8 CFR § 1003.18(d)(1)(A) ("In removal, deportation, and exclusion proceedings, immigration judges shall terminate the case where…no charge of deportability, inadmissibility, or excludability can be sustained.").

[61] INA § 240(c)(4)(A).

[62] Pub. L. 119-21, 139 Stat. 72 ("H.R. 1"). For further guidance on the new fee regime, please refer to the National Immigration Project's Comparison Chart of the Immigration-Related Fee Changes Brought by H.R.1 the So-Called One Big Beautiful Bill Act (Jul. 22, 2025), https://nipnlg.org/work/resources/comparison-chart-immigration-related-fee-changes-brought-hr1-so-called-one-big.

that the client can cover costs, if the need to file an application, petition, or appeal arises. Alternatively, a fee waiver may be available.

If the IJ ultimately decides that the LPR is deportable or has abandoned their LPR status, the person should consider appealing the decision to the BIA and, where warranted to the U.S. court of appeals with jurisdiction.

B. LPR Cancellation of Removal

A common remedy for LPRs is LPR cancellation of removal. If an LPR wins cancellation of removal, they can keep their LPR status and end the proceedings. An LPR can qualify for cancellation of removal under INA § 240A(a) if they:

- Have been an LPR for at least five years;
- Continuously resided in the United States for seven years after admission (certain acts "stop" the clock for accruing the seven years);
- Were not convicted of an aggravated felony;[63]
- Are not subject to eligibility bars;[64] and
- Merit a favorable exercise of discretion.[65]

Example: Maria was convicted of theft in 2015, a deportable crime involving moral turpitude but not an aggravated felony conviction. Although this conviction did not bar her from establishing GMC (it is not a permanent bar and not a statutory bar because it is outside of the GMC statutory period), she was placed in removal proceedings when she applied to naturalize because she was deportable. The IJ found that she was deportable, but she applied for LPR cancellation of removal. She obtained her green card in 2005 and was able to establish that she had five years of LPR status, seven years of continuous residence, and no aggravated felony conviction.

LPRs who are deportable on account of an aggravated felony conviction may be eligible for unique relief depending on the date of the conviction. An LPR whose aggravated felony convictions pre-date April 1, 1997, might be eligible for relief under former INA § 212(c).

[63] Whether a conviction qualifies as an aggravated felony requires a careful categorical approach analysis. Consult with an expert on the immigration consequences of criminal convictions to confirm that the client has been convicted of an aggravated felony.

[64] The following people are barred from LPR cancellation of removal: crewmen who entered after June 30, 1964 (INA § 240A(c)(1)); J visa holders subject to the foreign residence requirement (INA §§ 240A(c)(2), (3)); persecutors of others INA §240A(c)(5)); individuals previously granted cancellation, suspension, or 212(c) relief (INA § 240A(c)(6)).

[65] *Matter of C–V–T–*, 22 I&N Dec. 7 (BIA 1998).

LPRs who are deportable may also qualify for non-LPR cancellation under INA § 240A,[66] VAWA cancellation,[67] NACARA cancellation, or former suspension of deportation.

C. Remedies for LPRs Who Were Inadmissible at Time of Admission

If an LPR is charged with being inadmissible at the time of their original admission under INA § 237(a)(1)(A), and that charge is proven, they are not eligible for LPR cancellation of removal.[68] There are several potential remedies for clients in this situation, including the following waivers:

INA § 237(a)(1)(H) waiver.[69] The waiver of deportability under INA § 237(a)(1)(H) is often used for persons who are deportable because they committed fraud or a misrepresentation to gain admission.[70] It can also be used for those who were admitted due to a mistake, or who omitted a relevant fact in the immigrant visa application due to inadvertence. To qualify for the waiver, the person must 1) be the spouse, parent, son, or daughter of a U.S. citizen or LPR, 2) have been in possession of an immigrant visa, and 3) have been otherwise admissible at the time of admission to the United States.

> **Example**: Tavi became an LPR through their LPR father's family-based petition. Tavi did not disclose that they were married at the time. Many years later, after the marriage dissolved and Tavi applied to naturalize, USCIS determined that Tavi materially misrepresented their marital status in order to gain admission and placed Tavi in removal proceedings. Tavi has a qualifying relative, a U.S. citizen child, so they will be able to seek a 237(a)(1)(H) waiver.

INA § 212(k) waiver. People who were wrongfully admitted to the United States—i.e., those who were inadmissible at admission—may also be eligible for a waiver of removability under INA § 212(k). This waiver is only available to those issued an immigrant visa who are or were inadmissible under INA § 212(a)(5)(A) [failure to meet the labor certification requirement] or § 212(a)(7)(A)(i) [lack of proper documents], who are otherwise admissible, and who did not know, and could not reasonably have known, that they were inadmissible. Unlike the INA § 237(a)(1)(H) waiver, a waiver under § 212(k) cannot be used to waive a willful

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[66] For further guidance on Non-LPR Cancellation of Removal, see ILRC's *Non-LPR Cancellation of Removal: An Overview of Eligibility for Immigration* Practitioners (Jun. 6, 2018), https://www.ilrc.org/resources/non-lpr-cancellation-removal-overview-eligibility-immigration-practitioners.

[67] For further guidance on VAWA Cancellation of Removal, see ILRC's & National Immigration Project's *Practice Advisory: VAWA Cancellation of Removal* (Mar. 23, 2023), https://nipnlg.org/work/resources/vawa-cancellation-removal.

[68] *See* INA 240b(a)(1); *see, e.g.*, *Matter of Koloamatangi*, 23 I&N Dec. 548 (BIA 2003).

[69] Note that this waiver does not require a fee.

[70] This waiver also covers an innocent misrepresentation. *See Matter of Fu*, 23 I&N Dec. 985, 988 (BIA 2006).

misrepresentation.[71] This waiver can be used at the time of the initial admission, or later on, after the wrongful admission has been discovered, sometimes many years later.

> **Example**: Suchil became an LPR through her father. Unbeknownst to Suchil, her father obtained LPR status through fraud by conspiring with a former USCIS officer. During removal proceedings, Suchil applied for an INA § 212(k) waiver arguing that she lacked a valid immigrant visa at the time of entry, but was not inadmissible for any other reason. The IJ granted the INA § 212(k) waiver noting that Suchil was not part of her father's fraud.[72]

D. Re-adjustment

Sometimes a naturalization applicant who is found deportable by an IJ may readjust their status through a family member in immigration court. For example, if an individual obtained their green card through an LPR parent, but was actually married at the time and thus not eligible, they may be able to readjust through their U.S. citizen spouse. The petitioning family member would need to file Form I-130 with USCIS. Once approved, the beneficiary could file Form I-485 with the IJ.

Sometimes a deportable LPR who is eligible to re-adjust is inadmissible under INA § 212(a)(6)(C)(i) because they obtained an immigration benefit by fraud or willful misrepresentation of a material fact. If the government alleges and proves that the individual is subject to INA § 212(a)(6)(C)(i),[73] the individual may qualify for an INA § 212(i) discretionary waiver. An INA § 212(i) waiver requires that the applicant have a U.S. citizen or LPR parent or spouse qualifying relative(s) and that the applicant establish that the qualifying relative would suffer extreme hardship if the IJ denies the I-485.[74] The IJ may consider the nature of the applicant's fraud or misrepresentation to determine if a favorable exercise discretion is warranted.

In the re-adjustment context, a deportable LPR may also pursue a § 212(h) waiver unless they are subject to one of the bars.[75]

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[71] *See Matter of Aurelio*, 19 I&N Dec. 458 (BIA 1987) (holding that the respondent should have known the factual circumstances—the petitioning father's death—that led to the I-130 revocation and, as a result, the invalid visa).

[72] This example is based on the facts in *KyongHo Shin v. Holder*, 607 F.3d 1213 (9th Cir. 2010).

[73] 8 USCIS-PM J.3.

[74] INA § 212(i)(1).

[75] For additional guidance on INA § 212(h) waivers, please refer to ILRC's Eligibility for Relief: Waivers Under INA § 212(h) (Jan. 3, 2020), https://www.ilrc.org/resources/eligibility-relief-waivers-under-ina-%C2%A7-212h.

E. Asylum, Withholding, and Protection Under the Convention Against Torture

Asylum,[76] withholding of removal,[77] and protection under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)[78] provide protection against removal to individuals who may face persecution or torture if returned to their countries of origin. Each of these forms of relief has different eligibility requirements, legal standards, and bars that are beyond the scope of this resource.

Tip: When considering asylum, withholding of removal, and CAT protection, it is important to know that the Trump administration has begun removing individuals granted withholding of removal or protection under CAT to third countries. Although this unprecedented move has led to a legal challenge[79] and a preliminary injunction from a U.S. District Court,[80] the U.S. Supreme Court has stayed the preliminary injunction.[81] As federal courts consider the legality of removing individuals granted withholding of removal or protection under CAT to third countries, asylum remains the most protective of these forms of relief. Therefore, practitioners should prioritize proving asylum eligibility over withholding of removal and CAT protection.

F. Remedies for Survivors of Crimes

Waiver of Domestic Violence, Stalking, Violation of Protective Order.[82] Noncitizens with a stalking conviction, a crime of violence conviction, or who were found in criminal or civil court to have violated certain provisions of a domestic violence protection order are deportable,[83] but they may be eligible for a waiver. Sometimes victims of domestic violence end up cross-charged and convicted for one of these offenses.[84] With this reality in mind, Congress enacted a waiver for such noncitizens. If the noncitizen can make certain showings, an IJ may waive deportability under this ground. Note that because this is a waiver of deportability and not a

[76] INA § 208.
[77] INA § 241(b)(3)
[78] U.N. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Dec. 10, 1984, opened for signature Feb. 4, 1985, G.A. Res. 39/46, Annex, 39 U.N. GAOR Supp. No. 51, at 197, U.N. Doc. A/RES/39/708 (1984) (entered into force June 26, 1987), reprinted in 1465 U.N.T.S. 85, 23 I.L.M. 1027 (1984), Modified 24 I.L.M. 535 (1985). The implementing regulations are found at 8 CFR § 208.16-208.18.
[79] *D.V.D. v. DHS* is a certified nationwide class action concerning noncitizens who have a final removal order issued in removal proceedings under INA §§ 240, 241(a)(5), or 238(b) (including withholding-only proceedings under 8 C.F.R. § 1208.31). The case is litigated by the National Immigration Litigation Alliance, Northwest Immigrant Rights Project, and Human Rights First. For updates on this litigation, visit these organizations' websites.
[80] *D.V.D. v. DHS*, --- F. Supp. 3d ---, 2025 WL 1142968, at *24 (D. Mass. Apr. 18, 2025).
[81] *DHS v. D.V.D.*, No. 24A1153 (S. Ct. Jun. 23, 2025).
[82] Note that this waiver does not require a fee.
[83] INA § 237(a)(2)(E).
[84] INA § 237(a)(7)(A).

waiver of inadmissibility, the fee increases brought by the One Big Beautiful Bill Act do not impact this waiver.

U visa. U nonimmigrant status ("U visa") is a form of temporary immigration status and a path to a green card for certain survivors of serious crime.[85] An individual is eligible for a U visa if they can show they:

- were a survivor of a qualifying crime in the United States;
- suffered substantial physical or mental abuse;
- were, are, or are likely to be cooperative in an investigation or prosecution of the offense; and
- are admissible or eligible for a waiver of inadmissibility.

Note that pursuant to USCIS policy, LPRs are not eligible for U or T visas, discussed below, until they lose their LPR status. As such, the person would have to wait until they have a final order of removal and then apply for a U visa. However, the U visa backlog is very long because the demand for U visa outweighs the yearly statutory cap of 10,000 visas. Therefore, it is unlikely that USCIS would approve the U visa prior to the person's removal from the United States. If the individual is removed from the United States, they can pursue the U visa from abroad. In other words, removal from the United States will not prohibit a U visa applicant's eligibility.

T visa. T nonimmigrant status ("T visa") is a form of temporary immigration status and a path to a green card for certain survivors of human trafficking.[86] An individual is eligible for a T visa if they can show they:

- Were a survivor of labor or sex trafficking;
- Are present in the United States or a port of entry on account of the trafficking;
- Would suffer extreme hardship involving unusual and severe harm if removed; and
- Are admissible or eligible for a waiver of inadmissibility.

As noted above, pursuant to USCIS policy, LPRs are not eligible for T visas until they lose their LPR status. An LPR in removal proceedings would therefore have to wait until they have a final order of removal to apply for a T visa. Unlike a U visa, there is no backlog for T visas so it is possible that USCIS would approve the T visa before removing the person. Also, unlike a U visa, because T visa eligibility is contingent on physical presence in the United States, it is important for a T visa applicant to avoid physical removal from the United States. In other words, physical removal from the United States will render a T visa applicant ineligible for this humanitarian benefit unless they can later show that they are once again present in the United States on account of trafficking.

Violence Against Women Act. If a noncitizen has been battered by certain U.S. citizen or LPR family members, the noncitizen may be able to apply for a green card under the Violence

[85] INA § 101(a)(15)(U).
[86] INA § 101(a)(15)(T).

Against Women Act (VAWA) through a self-petition with USCIS or through VAWA cancellation of removal, as mentioned above.[87]

G. Voluntary Departure

A noncitizen who has no relief from removal and must leave the United States may benefit from leaving under a grant of voluntary departure instead of a removal order.[88] Leaving on voluntary departure avoids inadmissibility under INA § 212(a)(9)(A), which carries a ten-year bar, and reinstatement of removal should that person subsequently reenter the United States unlawfully. Noncitizens who have or may have the opportunity to return legally to the United States by consular processing will most benefit from voluntary departure.

VII. Travel, Absences, and Abandonment

LPRs should also carefully review their travel history before applying for naturalization, as absences can affect their eligibility in many different ways. Naturalization applicants must meet specific requirements regarding U.S. continuous residence, U.S. physical presence, and residence in the USCIS district or state where they are applying. Moreover, certain lengths of travel outside of the United States can result in a finding of abandonment of their LPR status or cause the LPR to be making a new "admission" upon return (and possibly trigger the deportability ground for being inadmissible at time of last admission).

Continuous residence and physical presence are two distinct requirements for naturalization. Although the two often intersect, they must each be separately satisfied unless an exception or exemption applies. An applicant must demonstrate continuous residence in the United States for a specific statutory period, which varies depending on the naturalization provision under which they apply. Most LPRs, for example, must show that they have continuously resided in the United States for the five years immediately preceding their naturalization filing date. They must also show physical presence for half the amount of time for which they must demonstrate continuous residence. If USCIS finds that an LPR lacks the requisite continuous residence or physical presence, the LPR is ineligible for naturalization, but may reapply for naturalization in the future. Until then, the LPR will retain their LPR status and is not deportable. Failure to meet the continuous residence or physical presence requirements can be costly in terms of wasted time as well as legal and application fees but does not make the LPR deportable.

By contrast, USCIS may find that an LPR has abandoned their LPR status when the naturalization applicant has made frequent or extended absences—longer than one year—from the United States. Such a finding will result in a denial of naturalization and likely trigger removal proceedings.

Continuous residence, physical presence, and abandonment of LPR status are discussed in detail below.

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[87] INA § 204(h).

[88] INA § 240B; 8 CFR §§ 240.25, 1240.26.

A. Continuous Residence

An applicant for naturalization must demonstrate that they have continuously resided in the United States as an LPR for a specific statutory period prior to filing. Continuous residence means the applicant must have maintained a "permanent dwelling place" in the United States throughout the statutory period.[89] The statutory periods of continuous residence are five years under the general provisions; three years when filing as the spouse of a U.S. citizen; or reduced periods for certain classes of applicants working abroad.[90] For example, an applicant naturalizing based on one year of military service during peacetime and who files their application during active service or within six months of separation, or based on military service for any period during hostilities is exempt from the continuous residence and physical presence requirements.[91] This means they do not have to show either of those requirements for any period. In analyzing continuous residence, USCIS "will consider the entire period from the LPR admission until the present."[92]

The burden is on the LPR to demonstrate continuous residence for the requisite period. Continuous residence can be disrupted by lengthy absences: those lasting one year or longer automatically disrupt continuous residency, while those lasting six months to less than one year are presumed to disrupt it.[93] Such absences can occur during the five- or three-year statutory period or after filing the naturalization application but before its adjudication.

An applicant who spent between six months and one year outside of the United States during the statutory period may rebut the presumption that they disrupted continuous residence by satisfying certain factors. This could include establishing that the applicant: (1) maintained employment in the United States; (2) did not work while abroad; (3) had immediate family members who remained in the United States; (4) continued to have full access to a residence they either owned or leased in the United States; and/or (5) paid federal income taxes.[94]

If the applicant is unable to rebut the presumption that they disrupted continuous residence, they must wait until the necessary length of time after the new statutory period has been established.[95]

> **Example:** Bella, who is subject to the five-year statutory period, returned from a nine-month long trip on June 10, 2021. Because her trip lasted longer than six months but less than one year, Bella can try to rebut the presumption that she disrupted continuous residence. If she cannot do so, she will have to wait until she has a new five-year statutory period without an absence of more than six months. That means she must wait four years and six months from the date of return.

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[89] 8 CFR § 316.5(a).
[90] 12 USCIS D.5.
[91] *Id*.
[92] 12 USCIS-PM D.3(B).
[93] 12 USCIS-PM D.5(C).
[94] 12 USCIS-PM D.3(C)(1).
[95] *Id*.

An applicant who spends one year or more outside of the United States during the statutory period automatically disrupts their continuous residence.[96] When such a break in continuous residence has occurred, the applicant must wait either four years and six months or four years and one day after returning to the United States.[97] If they can rebut the presumption of a break in continuous residence for their absence of more than six months but less than one year, they can apply the four-years-and-one-day rule. If they cannot do so, they must wait four years and six months.[98]

> **Example:** Sergio, who is subject to the five-year statutory period, departed the United States on June 10, 2020, and returned to the United States on June 11, 2021. Because his absence lasted longer than one year, his trip automatically breaks continuous residence. Sergio must wait until he has accrued the requisite statutory period before reapplying. Sergio can apply to naturalize starting on June 12, 2025, four years and one day after his re-entry, as long as he can overcome the presumption that his continuous residence was disrupted by his absence of longer than six months but less than one year. If Sergio cannot do so, then he must wait four years and six months, or until December 11, 2025. On that date, Sergio will have established a new five-year period of continuous residence, during which he was only absent from the United States between December 11, 2020, and June 11, 2021, a period that is less than six months. USCIS has allowed the LPR to count both the day they depart the United States and the day they return as days of continuous residence and physical presence for purposes of naturalization eligibility.

Practitioners should carefully screen clients for travel history and ensure that they are able to demonstrate continuous residence for the relevant statutory period. USCIS takes the position that if a person did not, in fact, maintain a "permanent dwelling place"[99] in the United States for the entire continuous residence period, even if no single absence was more than six months, they cannot establish continuous residence.[100] When a client has been outside of the United States for six months or more but less than one year, they should only apply to naturalize if they are able to present strong evidence that they maintained their continuous residence despite their prolonged absence. When a client has spent one year or longer outside of the United States, practitioners must advise their client to delay applying until they have established a new period of continuous residence. They should also screen for abandonment and whether the LPR made a new admission upon return.

B. Physical Presence

An applicant for naturalization must also demonstrate physical presence for a specific period of time. Physical presence refers to the applicant's actual presence within the United States and is counted by the number of days during which the applicant is here, including the day the

[96] INA § 316(b).
[97] 12 USCIS-PM D.3(C)(2).
[98] 12 USCIS-PM D.3(C)(2).
[99] 8 CFR § 316.5(a).
[100] 12 USCIS-PM D.3(C).

person departs from and returns to the United States.[101] Generally, an applicant must show physical presence for half of the statutory period for which they are required to show continuous residence.[102] Therefore, an LPR applying under the general provisions would need to show two and a half years of physical presence. An LPR applying as the spouse of a U.S. citizen would need to show one year and a half of physical presence. Furthermore, there are exemptions, such as for those naturalizing based on military service during hostilities; these applicants do not need to show any continuous residence or physical presence.[103] For applicants who must prove physical presence, evidence of physical presence can include an applicant's testimony or documentary evidence such as airline itineraries, doctor's visits, employment records, or school attendance.[104]

Form N-400 asks applicants to list the days within the statutory period they traveled outside of the United States. The USCIS naturalization officer will question applicants about these periods of time while at the same time having access to their official travel records. Practitioners should inform clients that USCIS officers are able to access applicants' travel records directly from Customs and Border Protection (CBP). Note, however, that CBP provides only a traveler's re-entry date and not their date of departure. Applicants who are unable to demonstrate physical presence for the requisite period should not apply to naturalize until they have accrued the necessary number of days.

C. Abandonment

Unlike the consequence of failing to establish continuous residence or physical presence – which is merely a denial of the N-400 – if an applicant is suspected of abandoning their residence, they can be placed in removal proceedings and potentially deported. That is because abandonment goes to the question of whether the naturalization applicant has maintained their LPR status.[105] Becoming an LPR gives someone the right to live and work permanently in the United States. It does not give someone the right to live permanently in another country.

In order to determine whether an LPR has abandoned their status, USCIS looks to a number of factors, including: (1) the length of the LPR's absence; (2) the purpose of their trip; (3) their intent to return to the United States; (4) whether they worked while abroad; (5) whether they paid U.S. taxes or filed as a "nonresident alien;" and (6) their continued ties to the United States.[106]

Practitioners should explain to clients the consequences of long absences, as well as the concepts of continuous residence, physical presence, and abandonment. Form N-400 requires applicants to list trips taken only within the statutory five- or three-year period. However, the

[101] 12 USCIS-PM D.4(1).
[102] INA § 316(a); 8 CFR § 316.2.
[103] 12 USCIS-PM D.5.
[104] 12 USCIS-PM D.4(B).
[105] INA § 316(b).
[106] 12 USCIS-PM D.2(B)(1).

naturalization officer may still take into consideration any absences that occurred before the statutory period and up to their last admission when making an abandonment determination.

The USCIS Policy Memo that provides guidance on the issuance of NTAs[107] states that the agency will issue an NTA when a Form I-90 is denied due to abandonment. The memo does not state that an LPR will be referred to removal proceedings if their naturalization application is denied based on abandonment. However, the USCIS Policy Manual currently states that when a naturalization applicant "has failed to meet the burden of establishing that he or she maintained LPR status, DHS places the applicant in removal proceedings by issuing a Notice to Appear (NTA) (Form I-862), where issuance would be in accordance with established guidance."[108] Therefore, practitioners must take care to screen clients applying for naturalization or replacement green cards for potential abandonment.

VIII. Conclusion

Naturalization remains the best defense against immigration enforcement for many LPRs. However, this practice advisory explains some red flag issues that could cause an LPR to be denied naturalization and even detained and deported. Thorough screening is crucial to make sure that an LPR is able to make an informed decision about whether to pursue naturalization. For a screening checklist to use with clients, please look to the ILRC's Naturalization Red Flag Checklist.

[107] NTA Memo.
[108] 12 USCIS D.2(B).