

18. Veterans Benefits

Non-U.S. citizens who serve in the U.S. Armed Forces are entitled both to receive veterans benefits and to apply for expedited citizenship during active duty or after retirement. However, many veterans do not ultimately apply for and receive citizenship after being honorably discharged. If a non-U.S. citizen veteran is convicted and imprisoned for committing a felony, they could be subjected to removal (deportation) proceedings upon release from prison. This chapter discusses your rights as a non-U.S. citizen veteran to veterans benefits, and how deportation affects those benefits.

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Each Chapter is intended to provide generalized information on a particular topic. In many cases, laws may differ from state to state. Therefore, this information is not intended to replace state-specific legal assistance. Nothing in this manual is intended to create an attorney-client or fiduciary relationship.

Non-Citizens are Eligible to Serve in the U.S. Armed Forces

To enlist in any branch of the U.S. military, you must either be a U.S. citizen or a legal permanent resident with a green card physically living in the United States. Non-citizens can only join the military as an enlisted member.

For enlistment purposes, citizens of the United States include citizens of Guam, Puerto Rico, the U.S. Virgin Islands, the Northern Marianas Islands, American Samoa, the Federated States of Micronesia, and the Republic of the Marshall Islands, as well as the 50 states.

There are also additional requirements for enlistment. You must also have a high school diploma or general equivalency diploma (GED) to enlist. You must also meet the age limit requirements for the branch you enlist in. Everyone enlisting in the military must also take the Armed Services Vocational Aptitude Battery (ASVAB) exam, and meet the physical and medical requirements for the branch you want to join.

Expedited Citizenship for Military Members and Their Families

Citizenship for Military Members

If you serve honorably in the U.S. military for at least one year at any time, you may be eligible to apply for naturalization under the Immigration and Naturalization Act Section 328. The benefits of naturalization through military service include waiver of the requirements that a non-citizen must be a permanent resident for 5 years, must be physically present in the U.S. for 30 months, and the requirement of the USCIS filing fee.

To establish eligibility, you must:

- Be 18 years old or older;
- Have served honorably at any time in the U.S. armed forces for a period or periods totaling at least 1 year;
- Have submitted a completed Form N-426, Request for Certification of Military or Naval Service, at the time of filing your N-400, if you are currently serving, or a photocopy of your DD Form 214, Certificate of Release or Discharge from Active Duty, NGB Form 22, National Guard Report of Separation and Record of Service, or other official discharge document for all periods of service if you are not currently serving; demonstrate that if separated from service, you were separated under honorable conditions;
- Be a lawful permanent resident at the time of your naturalization interview;
- Meet certain residence and physical presence requirements;
- Demonstrate the ability to read, write and speak English, unless qualified for a waiver or exception;
- Demonstrate knowledge of U.S. history and government, unless excepted;
- Demonstrate good moral character for at least five years before filing your N-400 through the day you naturalize; and
- Demonstrate an attachment to the principles of the U.S. Constitution and be well disposed to the good order and happiness of the United States during all relevant periods under the law, unless waived.

If you meet the requirements of Section 328 of the Immigration and Naturalization Act, you may apply for naturalization by filing [Form N-400, Application for Naturalization](#).

You may also apply for naturalization under Section 329 of the Immigration and Naturalization Act if you are currently serving or previously served in the U.S. military during a period of hostilities. Under Section 329, some requirements may not apply or may be reduced.

Many military installations have a designated U.S. Citizenship and Immigration Services liaison to help with the naturalization process. You may also complete your application by creating an online account and [filing your Form N-400 online](#).

More information is available at:

<https://www.uscis.gov/military/naturalization-through-military-service>

Citizenship for Spouses and Children of Military Members

Spouses of U.S. service members may be eligible for expedited naturalization. Children of U.S. service members may also be eligible for naturalization or may be eligible to automatically acquire citizenship. Expedited naturalization is usually done when the spouse or children of a military member is accompanying the military member overseas.

Spouses

Spouses Living in the US

If you have been a lawful permanent resident for at least three years and have been married to and living with your U.S. citizen spouse for that time, you can apply for naturalization.

Expedited Naturalization for Spouses

Spouses of U.S. service members who are, or will be, stationed outside the United States may be eligible for expedited naturalization in the U.S. under Section 319(b) of the Immigration and Nationality Act. To apply for naturalization, the spouse must:

- Be age 18 or older;
- Establish your spouse is a U.S. citizen who is, or will be, regularly stationed abroad as a U.S. service member for a period of one year or more;
- Be authorized to accompany your spouse abroad by your spouse's official orders;
- Be present in the U.S. at the time of naturalization;
- Declare in good faith upon naturalization an intent to reside abroad an intent to reside abroad with your U.S. citizen spouse and to reside in the U.S. immediately upon your spouse's termination of service abroad;

- Be able to read, write, and speak basic English;
- Have a basic knowledge of U.S. history and government (civics); and
- Have been, and continue to be, a person of good moral character, attached to the principles of the U.S. Constitution and well-disposed to the good order and happiness of the U.S. during all relevant periods under the law.

Spouses Living Overseas

In some cases, spouses of U.S. military members can complete the naturalization process while living abroad. Under Section 319(e)(2) of the INA, a lawful permanent resident who is married to a U.S. service member can naturalize outside the United States without traveling to the U.S. To be eligible, the spouse must:

- Be the spouse of a U.S. service member who is stationed outside the United States in that capacity;
- Be authorized to accompany your spouse outside the United States by your spouse's official orders;
- Reside outside the United States in marital union with your spouse; and
- Meet the requirements of either section 316(a) or 319(a) of the INA at the time you file your naturalization application.

Children

Children Born in the U.S.

Children of U.S. service members may automatically acquire citizenship if they are born in the U.S.

Children Born Abroad

Children of U.S. service members who are born abroad may still acquire citizenship through the following processes:

- **At Birth:** A child can have automatic citizenship at birth if one or both parents are U.S. citizens when the child is born and if the parent meets the residence or physical presence requirements (including period of honorable service in the U.S. military).

- **Automatic Citizenship After Birth:** A child can have automatic citizenship after birth if: the child is a lawful permanent resident; at least one parent is a U.S. citizen; the child is residing in the legal and physical custody of the U.S. citizen parent; the U.S. citizen parent is stationed and residing outside the U.S. as a member of the U.S. military; and the child is residing with them outside the U.S. To obtain a Certificate of Citizenship, the child is required to come to the U.S. and complete the citizenship process in the U.S.
- **Children Born and Residing Outside the United States:** If the child did not automatically gain U.S. citizenship under other laws, the child can still gain citizenship if they: have at least one U.S. citizen parent; take the Oath of Allegiance before the age of 18; have a U.S. citizen parent or grandparent that meets the physical presence requirements; and reside outside the U.S. in the legal and physical custody of the parent, including with a U.S. military service member.

Family Members of Deceased Service Members

If your U.S. service member spouse or parent died as a result of their military service, you might be eligible for expedited naturalization. Generally, the spouse and children under age 21 and parents of a U.S. citizen who died during honorable military service can apply for citizenship right away. Requirements include:

- Being a lawful permanent resident;
- Meeting the general naturalization requirements except for the residence or physical presence requirements in the U.S.; and
- Having lived with your service member spouse at the time of death unless you lived apart because of circumstances beyond your control, such as the spouse's military service.

Family members who do not have lawful permanent resident status may apply for a green card as the immediate relative of the deceased service member. The petition must be filed within two years of the service member's death.

More information is available at:

<https://www.uscis.gov/military/citizenship-for-military-family-members>

Veterans Benefits for Military Veterans, Dependents and Survivors

Special Veterans Benefits under the Social Security Administration (SSA)

Under certain circumstances, military veterans who served between 1957 and 2001 can be credited with designated special extra earnings for Social Security purposes. These extra earnings may help you qualify for Social Security or increase the amount of your Social Security benefit. Depending on the length and time frame of military service, some veterans may find that the benefit increase may be minimal. These special extra earnings are granted for periods of active duty or active duty for training. Special extra earnings are not granted for inactive duty training.

Disability benefits under the Social Security Administration (SSA)

Veterans may be eligible for Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI) in conjunction with, or as an alternative to, VA disability compensation. SSI/SSDI benefits do not require that the veteran's disability be linked to their military service, does not take into account a veteran's discharge status, and does not pay on a graduated scale. For SSI/SSDI, the Veteran needs to show:

1. Evidence of a physical or mental health condition, which results in functional impairments that limit their ability to work at a substantial gainful level; and
2. That the disabling condition has lasted, or is expected to last, for 12 months or end in death.

SSA Expedited Processing for Veterans

The SSA provides expedited processing of disability claims filed by veterans who have a Department of Veterans Affairs Compensation rating of 100% Permanent and Total (P&T), or by veterans who develop a disability while on active military service on or after October 1, 2001.

To expedite the processing of your SSI/SSDI application for 100% P&T Claims, you must:

- Identify yourself as a “veteran rated 100% P&T” when you apply for benefits. If you apply in person or over the phone, tell the Social Security representative that you are a veteran rated 100% P&T. If you apply online, enter “Veteran 100% P&T” in the “Remarks” section of the application; and
- Provide Social Security with your Veterans Affairs notification letter, which verifies your rating.

To expedite the processing of your SSI/SSDI application through the Wounded Warriors program, you must inform the SSA that your injury occurred while on active duty. The injury does not need to have occurred during combat operations.

More information is available at: <https://www.ssa.gov/people/veterans/index.html>

Veterans Administration (VA)

The benefits include health care, disability compensation, special monthly compensation, allowances and grants (related to disability), vocational rehabilitation and employment (for disabled), pensions and education.

A thorough discussion and more information is available at:

<https://department.va.gov/get-started/>

Potential for Non-Citizen Veterans to be Deported

Non-citizen veterans of military service may be subject to removal for a variety of reasons, including the commission of crimes worthy of imprisonment, engagement in terrorist activities, and failure to comply with visa requirements. Even nonviolent and misdemeanor crimes can result in mandatory deportation and lifetimes bars to reentry and naturalization in the U.S. In a 2024 article by the Military Times, about 94,000 veterans do not possess U.S. citizenship and are at risk of deportation.²⁰ For crimes that may result in a non-citizen being removed (deported), a thorough discussion can be found at:

<https://www.nolo.com/legal-encyclopedia/crimes-that-will-make-immigrant-deportable.html>

Loss of Benefits Because of a Felony Conviction and Imprisonment (Applies to All Veterans)

SSA Benefits

See, generally, <https://www.ssa.gov/pubs/EN-05-10133.pdf>

VA Benefits

Veterans may lose their VA benefits if they become incarcerated. For incarcerated veterans, a reduction or complete loss of benefits is determined by the crime committed and the resulting prison sentence, e.g. whether the offense was a felony or misdemeanor. Benefits commonly affected by a prison sentence include educational as well as disability entitlements. See, generally,

<http://www.benefits.va.gov/persona/veteran-incarcerated.asp>

VA Disability Compensation

VA disability compensation payments are reduced if a veteran is convicted of a felony and imprisoned for more than 60 days. Veterans rated 20 percent or more are limited to the 10 percent disability rate. For a veteran whose disability rating is 10 percent, the payment is reduced by one-half. These payments may be collected again following a

²⁰ See:

<https://www.militarytimes.com/news/your-military/2024/04/15/deported-veterans-struggle-to-access-va-services-study-finds/>

release from prison depending on the severity of the service-connected disability at that time.

VA Pension

Unlike disability compensation, a VA pension will be lost completely regardless of the crime committed and the accompanying sentence. Payments for VA pensions will stop on the 61st day of incarceration. These payments may be collected again following a release from prison, but only if all VA eligibility requirements are met again. If a veteran fails to notify the VA of their incarceration, they may lose all VA benefits until the overpayments they received while incarcerated are recovered.

VA Apportionment to Spouse or Children

Inmates who are not receiving their benefits in prison can opt to have the payments sent to their spouse, children, or parents if they are dependents of the inmate. To receive these benefits, the individual needs of the persons who will receive the benefit will need to be established. Apportionment is not available for veterans convicted of a felony. Whoever is to receive the benefit payments, must apply to get the money from the VA, because it will not be sent automatically.

VA Education Benefits

Veterans who are incarcerated for any crime that is not a felony crime can still receive monthly education benefits. If convicted for a felony offense, then a veteran may receive only partial education benefits.

Veterans Benefits after Deportation

SSA Benefits

The deportation of a non-citizen veteran may result in non-payment of Special Veterans Benefits. Suspension of benefits begins the month after the month that the SSA receives notice of non-citizen veteran's removal or deportation from the Secretary of Homeland Security, DHS, the Attorney General, or the DOJ. Once the non-citizen veteran is subject to non-payment of benefits following their removal, payments cannot be reinstated until and unless they are granted lawful admission for permanent residence in the United States. Dependent or survivor benefits on a removed non-citizen veteran's record cannot be paid for any month in which:

- Benefits are or would have been suspended; and
- The dependent or survivor is a non-US citizen; and
- The dependent or survivor was outside the United States at any time during the month, even if the absence was only for part of a day.

See, generally, <https://secure.ssa.gov/poms.nsf/lnx/0302635001>.

VA Benefits

The removal of a non-citizen veteran should generally not affect his or her VA Benefits, but it will require compliance with additional procedures. The VA should treat the veteran just as it treats other veterans who are living abroad. See, generally, <http://www.benefits.va.gov/persona/veteran-abroad.asp>.

The Immigrant Military Members and Veterans Initiative

In 2021, the DHS and the VA began a collaboration called the Immigrant Military Members and Veterans Initiative (IMMVI) to assist veterans and their families with the return of and access to benefits for non-citizen veterans and their immediate family members. The online portal to access the benefits of this program and review resources provided by this initiative can be found at: <https://www.dhs.gov/immvets>