

U.S. EMBASSY – MANILA

American Citizen Services

Newsletter

Claims to U.S. Citizenship

Are you a U.S. citizen parent of a child born here in the Philippines? Do you know someone who is? Have you documented that relationship with the U.S. Embassy?

It is very important that American parents apply for their children's derivative U.S. citizenship as early as possible after the child's birth outside of the U.S. This is especially true if the parents are not married. Delays in the filing process may cause future problems or result in a child losing potential U.S. citizenship.

Individuals over 18 who believe they may have a claim to U.S. citizenship should review the information on derivative claims to U.S. citizenship available on the American Citizen Services section of the Embassy website <http://philippines.usembassy.gov>. To Register a Birth and/or File a Claim to U.S. Citizenship contact Federal Express. An application package will be delivered to your door.

FedEx Call Center Exclusive ACS Hotline:
(63) (2) 879-4747, 7:30am - 4:30 pm, Mon-Fri

Physical Presence Requirements for Derivative U.S. Citizenship

What are the physical presence requirements for a U.S. citizen parent wishing to transmit citizenship to a child born outside the U.S.?

For applicants born:

- before January 13, 1941, submit documentary proof of U.S. citizen parent's physical presence in the U.S. any time before the applicant's birth.
- between January 13, 1941 and July 3, 1946, submit documentary proof of U.S. citizen parent's physical presence in the U.S. or its outlying possessions any time before the applicant's birth.
- between July 4, 1946 and December 23, 1952, submit documentary proof of U.S. citizen parent's cumulative physical presence in the U.S. or its outlying possessions for ten years, five after the citizen parent's 16th birthday and before the applicant's birth.
- between December 24, 1952 and November 13, 1986, submit documentary proof of U.S. citizen parent's cumulative physical presence in the U.S. or its outlying possessions for ten years, five after the citizen parent's 14th birthday and before the applicant's birth.

- On or after November 14, 1986, submit documentary proof of U.S. citizen parent's cumulative physical presence in the U.S. or its outlying possessions for five years, two after the citizen parent's 14th birthday and before the applicant's birth.
- Out of wedlock birth to a U.S. citizen mother, submit documentary proof of U.S. citizen mother's continuous physical presence in the U.S. or its outlying possessions for one year before the applicant's birth.

Documentary proof of physical presence in the U.S. may consist of old/current passports, military records (statement of service/history of assignments), employment records (leave and earning statements with wage and tax (W2) forms), school records, etc.

Turnaround Times for Passports and Consular Reports of Birth Abroad

What is the turnaround time in processing Consular Reports of Birth Abroad (CRBA) and adult derivative citizenship and passports?

Normally, it takes approximately eight weeks from the submission of a CRBA or adult citizenship application to the scheduling of an interview appointment. Upon approval of the CRBA or adult derivative citizenship application, it will take approximately two more weeks to get the passport from the U.S.

NIV Section 214(b) Visa Denials

Liza was excited. In three days her friend Timothy would come visit her in the United States. Suddenly, the phone rang. Liza couldn't believe her ears! Sadly, Timothy told her, "I cannot come...the Consul said I am 214(b)."

On any given day throughout the world some visa applicants find themselves in Timothy's situation. They hear the consular officer say, "Your visa application is refused. You are not qualified under Section 214(b) of the Immigration and Nationality Act." To be refused a visa when you are not expecting it causes great disappointment and sometimes embarrassment. Here is what a 214(b) visa refusal means and what applicants and friends can do to prepare for a visa reapplication.

WHY IS THERE A VISA REQUIREMENT?

The United States is an open society. Unlike many other countries, the United States does not impose internal controls on most visitors, such as registration with local authorities. In order to enjoy the privilege of unencumbered travel in the United States, aliens have a responsibility to prove they are going to return abroad before a visitor or student visa is issued. Our immigration law requires consular officers to view every visa applicant as an intending immigrant until the applicant proves otherwise.

WHAT IS SECTION 214(b)?

Section 214(b) is part of the Immigration and Nationality Act (INA). It states:

Every alien shall be presumed to be an immigrant until he establishes to the satisfaction of the consular officer, at the time of application for admission, that he is entitled to a nonimmigrant status...

To qualify for a visitor or student visa, an applicant must meet the requirements of sections 101(a) (15) (B) or (F) of the INA respectively. Failure to do so will result in a refusal of a visa under INA 214(b). The most frequent basis for such a refusal concerns the requirement that the prospective visitor or student possess a residence abroad which he/she has no intention of abandoning. Applicants prove the existence of such a residence by demonstrating that they have ties abroad that would compel them to leave the U.S. at the end of their temporary stay. The law places the burden of proof on the applicant.

Our consular officers have a difficult job. They must decide in a very short time if someone is qualified to receive a temporary visa. Most cases are decided after a brief interview and review of whatever evidence of ties an applicant presents.

WHAT CONSTITUTES "STRONG TIES"?

Strong ties differ from country to country, city to city, individual to individual. "Ties" are the various aspects of your life that bind you to your country of residence: your possessions, employment, social and family relationships.

As a U.S. citizen or legal permanent resident, imagine your own ties to the United States. Would a consular officer of a foreign country consider you to have a residence in the United States you do not intend to abandon? It is likely that the answer would be "yes" if you have a job, a family, if you own or rent a house or apartment, or if you have other commitments that would require you to return to the United States at the conclusion of a visit abroad. Each person's situation is different.

Our consular officers are aware of this diversity. During the visa interview they look at each application individually and consider professional, social, cultural and other factors. In cases of younger applicants who may not have had an opportunity to form many ties, consular officers may look at the applicants' specific intentions, family situations, and long-range plans and prospects within his or her country of residence. Each case is examined individually and is accorded every consideration under the law.

IS A NIV DENIAL UNDER SECTION 214(B) PERMANENT?

No. The consular officer will reconsider a case if an applicant can show further convincing evidence of ties outside the U.S. Your friend, relative or student should contact the embassy or consulate to find out about reapplication procedures. Unfortunately, some applicants will not qualify for a nonimmigrant visa, regardless of how many times they reapply, until their personal, professional, and financial circumstances change considerably.

HOW CAN I HELP?

You may provide a letter of invitation or support. However, this cannot guarantee visa issuance to a foreign national friend, relative or student. Visa applicants must qualify for the visa according to their own circumstances, not on the basis of an American sponsor's assurance.

WHAT CAN YOU DO IF AN AQUAINTANCE IS REFUSED A VISA UNDER 214(B) FOR LACK OF A RESIDENCE ABROAD?

First encourage your relative, friend or student to review carefully their situation and evaluate realistically their ties. You can suggest that they write down on paper what qualifying ties they think they have which may not have been evaluated at the time of their interview with the consular officer. Also, if they have been refused, they should review what documents were submitted for the consul to consider. Applicants refused visas under section 214(b) may reapply for a visa. When they do, they will have to show further evidence of their ties or how their circumstances have changed since the time of the original application. It may help to answer the following questions before reapplying: (1) Did I explain my situation accurately?; (2) Did the consular officer overlook something?; (3) Is there any additional information I can present to establish my residence and strong ties abroad?

Your acquaintances should also bear in mind that they will be charged a nonrefundable application fee each time they apply for a visa, regardless of whether a visa is issued.

WHO CAN INFLUENCE THE CONSULAR OFFICER TO REVERSE A DECISION?

Immigration law delegates the responsibility for issuance or refusal of visas to consular officers overseas. They have the final say on all visa cases. By regulation, the U.S. Department of State has authority to review consular decisions, but this authority is limited to the interpretation of law, as contrasted to determinations of facts. The question at issue in such denials, whether an applicant possesses the required residence abroad, is a factual one. Therefore, it falls exclusively within the authority of consular officers at our Foreign Service posts to resolve. An applicant can influence the post to change a prior visa denial only through the presentation of new convincing evidence of strong ties.

May 2006 <http://travel.state.gov/visa/frvi/denials>

Dual Nationality

U.S. Policy on Dual Nationality

The Department of State is responsible for determining the citizenship status of a person located outside the United States or in connection with the application for a U.S. passport while in the United States. The following information explains dual nationality and U.S. citizenship, including circumstances where U.S. citizenship may be lost.

What is dual nationality?

Dual nationality is the simultaneous possession of two citizenships. When a person is naturalized in a foreign state (or otherwise possesses another nationality) and is thereafter found not to have lost U.S. citizenship, the individual consequently may possess dual nationality. It is prudent, however, to check with authorities of the other country to see if dual nationality is permissible under local law. The United States does not favor dual nationality as a matter of policy, but does recognize its existence in individual cases. The Supreme Court of the United States has stated that dual nationality is "a status long recognized in the law" and that "a person may have and exercise rights of nationality in two countries and be subject to the responsibilities of both. The mere fact that he asserts the rights of one citizenship does not mean that he renounces the other. These concepts apply also to persons who have more than two nationalities.

How is dual nationality acquired?

Dual nationality results from the fact that there is no uniform rule of international law relating to the acquisition of nationality. Each country has its own laws on the subject, and its nationality is conferred upon individuals on the basis of its own independent domestic policy. Individuals may have dual nationality not by choice but by automatic operation of these different and sometimes conflicting laws.

The laws of the United States, no less than those of other countries, contribute to the situation because they provide for acquisition of U.S. citizenship by birth in the United States and also by birth abroad to an American, regardless of the other nationalities which a person might acquire at birth. For example, a child born abroad to U.S. citizens may acquire at birth not only American citizenship but also the nationality of the country in which he/she was born. Similarly, a child born in the United States to foreigners may acquire at birth both U.S. citizenship and a foreign nationality. The laws of some countries provide for automatic acquisition of citizenship after birth -- for example, by marriage. In addition, some countries do not recognize naturalization in a foreign state as grounds for loss of citizenship. A person from one of those countries who is naturalized in the United States keeps the nationality of the country of origin despite the fact that one of the requirements for U.S. naturalization is a renunciation of other nationalities.

Current law and policy

The current nationality laws of the United States do not specifically refer to dual nationality. The automatic acquisition or retention of a foreign nationality does not affect U.S. citizenship; however, under limited circumstances, the acquisition of a foreign nationality upon one's own application or the application of a duly authorized agent may cause loss of U.S. citizenship under Section 349 (a)(1) of the [Immigration and Nationality Act](#) [8 U.S.C. 1481 (a)(1)].

In order for loss of nationality to occur under Section 349 (a) (1), it must be established that the naturalization was obtained voluntarily by a person eighteen years of age or older with the intention of relinquishing U.S. citizenship. Such an intention may be shown by the person's statements or conduct. As discussed below, in most cases it is assumed that Americans who are naturalized in other countries intend to keep their U.S. citizenship. As a result, they have both nationalities.

United States law does not contain any provisions requiring U.S. citizens who are born with dual nationality to choose one nationality or the other when they become adults. While recognizing the existence of dual nationality and permitting Americans to have other nationalities, the U.S. Government does not endorse dual nationality as a matter of policy because of the problems that it may cause. Claims of other countries upon dual-national U.S. citizens often place them in situations where their obligations to one country are in conflict with the laws of the other. In addition, their dual nationality may hamper efforts to provide diplomatic and consular protections to them when they are abroad.

Allegiance to which country?

It is generally considered that while dual nationals are in the country of which they are citizens that country has a predominant claim on their allegiance. As with Americans who possess only U.S. citizenship, dual national U.S. citizens owe allegiance to the United States and are obliged to obey its laws and regulations. Such persons usually have certain obligations to the other country as well. Although failure to fulfill such obligations may have no adverse effect on dual nationals while in the United States because the other country would have few means to force compliance under those circumstances, dual nationals might be forced to comply with those obligations or pay a penalty if they go to the country of their other citizenship. In cases where dual nationals encounter difficulty in a foreign country of which they are citizens, the ability of U.S. Consular Officers to provide assistance may be quite limited since many foreign countries may not recognize a dual national's claim to U.S. citizenship.

Which passport to use?

Section 215 of the [Immigration and Nationality Act](#) (8 U.S.C. 1185) requires U.S. citizens to use U.S. passports when entering or leaving the United States unless one of the exceptions listed in Section 53.2 of Title 22 of the Code of Federal Regulations applies.

(One of these exceptions permits a child under the age of 12, who is included in the foreign passport of a parent who has no claim to U.S. citizenship, to enter the United States without a U.S. passport, provided the child presents evidence of his/her U.S. citizenship when entering the United States.) Dual nationals may be required by the other country of which they are citizens to enter or leave that country using its passport, but do not endanger their U.S. citizenship by complying with such a requirement.

How to give up dual nationality?

Most countries have laws which specify how a citizen may lose or divest citizenship. Generally, persons who do not wish to maintain dual nationality may renounce the citizenship which they do not want. Information on renouncing a foreign nationality may be obtained from the foreign country's Embassies and Consulates or from the appropriate governmental agency in that country. Americans may renounce their U.S. citizenship abroad pursuant to Section 349 (a)(5) of the Immigration and Nationality Act [8 U.S.C. 1481 (a)(5)]. Information on renouncing U.S. citizenship may be obtained from U.S. Embassies and Consulates and the Office of Consular Services, Department of State, Washington, D.C. 20520.

Furthermore, an American citizen who is naturalized as a citizen of another country voluntarily and with intent to abandon his/her allegiance to the United States may so indicate their intent and thereby lose U.S. citizenship. See below for further information. For further information on dual nationality, see Marjorie M. Whiteman's Digest of International Law (Department of State Publication 8290, released September 1967), Volume 8, pages 64-84.

Potentially expatriating acts / Loss of citizenship

Section 349 of the [Immigration and Nationality Act](#), as amended, states that U.S. citizens are subject to loss of citizenship if they perform certain acts voluntarily. Briefly stated, these acts include:

- (a) obtaining naturalization in a foreign state (Sec. 349(a)(1), INA);
- (b) taking an oath, affirmation or other formal declaration of allegiance to a foreign state or its political subdivisions (Sec. 349(a)(2), INA);
- (c) entering or serving in the armed forces of a foreign state engaged in hostilities against the U.S. or serving as a commissioned or non-commissioned officer in the armed forces of a foreign state (Sec. 349(a)(3), INA);
- (d) accepting employment with a foreign government if: (i) one has or acquires the nationality of that foreign state; or (ii) a declaration of allegiance is required in accepting the position (Sec. 349(a)(4), INA);

(e) formally renouncing U.S. citizenship before a U.S. consular officer outside the United States (Sec. 349(a)(5), INA);

(f) formally renouncing U.S. citizenship within the U.S. (but only in time of war) (Sec. 349(a)(6), INA);

(g) conviction for an act of treason (Sec. 349(a)(7), INA).

Administrative standard of evidence

The actions listed above can cause loss of U.S. citizenship only if performed voluntarily and with the intention of relinquishing U.S. citizenship. The Department has a uniform administrative standard of evidence based on the premise that U.S. citizens intend to retain United States citizenship when they obtain naturalization in a foreign state, subscribe to routine declarations of allegiance to a foreign state, or accept non-policy level employment with a foreign government. (See note on policy-level employment, below.)

Disposition of cases when an administrative premise is applicable.

In the following cases, a person need not submit prior to the commission of a potentially expatriating act a statement or evidence of his or her intent to retain U.S. citizenship since such intent will be presumed:

(1) The person is naturalized in a foreign country;

(2) The person takes a routine oath of allegiance; or

(3) The person accepts non-policy level employment with a foreign government and in so doing wishes to retain U.S. citizenship,

When such cases come to the attention of a U.S. consular officer, for example, the person concerned applies for a new passport, he/she is required to submit with the application a supplementary explanatory signed statement to ascertain his/her intent towards U.S. citizenship.

Accordingly, the consular officer will certify that it was not the person's intent to relinquish U.S. citizenship and, consequently, find that the person has retained U.S. citizenship. Evidence of how and when the foreign nationality was acquired should be presented with the statement.

Disposition of cases when an administrative premise is inapplicable.

The premise that a person intends to retain U.S. citizenship is not applicable in the following cases when the individual:

(1) formally renounces U.S. citizenship before a consular officer;

(2) takes a policy level position in a foreign state;

(3) is convicted of treason; or

(4) performs an act made potentially expatriating by statute accompanied by conduct which is so inconsistent with retention of U.S. citizenship that it compels a conclusion that the individual intended to relinquish U.S. citizenship. (Such cases are very rare.)

What is policy level employment?

As a general rule, policy level employment would include, but not be limited to, the following high government positions: head of state or government, member of a national legislature, top positions in executive agencies, and diplomatic representatives down to even relatively low positions.

Persons who wish to relinquish U.S. citizenship

An individual who has performed any of the acts made potentially expatriating by statute who wishes to lose U.S. citizenship may do so by affirming in writing to a U.S. consular officer that the act was performed with intent to relinquish U.S. citizenship. This can be done by signing a "Statement of Voluntary Relinquishment of U.S. Nationality" in the presence of a U.S. consular officer, or by submitting a signed statement executed before a Notary Public or a Court Magistrate. In any case, evidence of foreign citizenship (original copy) and U.S. citizenship must be presented to a U.S. consular officer as outlined above. A person always has the option of seeking to formally renounce U.S. citizenship in accordance with Section 349(a)(5), INA. Please consult the U.S. Embassy for details. We strongly recommend that a person who wishes to sign the "Statement of Voluntary Relinquishment of U.S. Nationality" do so before a consular officer, to ensure that the statement is clear and unequivocal as to the person's intent. With respect to renunciation, in every case the renunciation must be done in person before a consular officer.

Applicability of administrative premise to past cases

The premise established by the administrative standard of evidence is applicable to cases previously adjudicated by the Department. Persons who previously lost U.S. citizenship may wish to have their cases reconsidered in light of this policy. A person may initiate such reconsideration by submitting a request to the nearest U.S. consular office or by writing directly to:

Chief, East Asia and Pacific Division
Office of American Citizens Services
(CA/OCS/ACS/EAP), Room 4811
Department of State
Washington D.C. 20520-4818

Each case will be reviewed on its own merits taking into consideration, for example, statements made by the person at the time of the potentially expatriating act.

Dual national children

By U.S. laws, even if your children also hold foreign nationality, they are required to enter and depart the United States on a valid U.S. passport at all times. They should not enter the United States on a foreign passport or on U.S. visa waiver program.

Further information can be found at: <http://philippines.usembassy.gov>

and at <http://travel.state.gov>

Information provided by:

**American Citizen Services
U.S. Embassy
1201 Roxas Blvd.
Ermita, Manila, Philippines**

Consul General: Richard D. Haynes

ACS Chief: Christopher Rowan

Office: 632-528-6300
x2246/2555

Fax: 632-522-3242

Passports

Mon through Fri 7:30am - 11:00am
For applications: FedEx 02-879- 4747 or
<http://www.philippines.usembassy.gov>

Citizenship and Birth Registration

By appointment only
For forms/applications: FedEx 02-879-4747 or
<http://www.philippines.usembassy.gov>

Notary Services

Mon through Fri 7:30am - 10:00am

Legal Capacity to Marry

Mon through Fri 7:30am - 10:00am

EMERGENCIES: For emergencies after hours please call 63-2-528-6300 and ask for the Duty Officer.

Website:

<http://www.philippines.usembassy.gov>

Email:

acsinfomanila@state.gov

Virtual Consulate Davao:

<http://www.usvirtualconsulatedavao.org.ph>

Online Registration:

<https://travelregistration.state.gov>

Cebu Consular Agency - Waterfront Hotel, Lahug

Tel: (032) 231-1261 Fax: (032) 231-0174