

9 FAM 402.2-4(B)(7) (U) Children Seeking Expeditious Naturalization under INA 322

(CT:VISA-1288; 05-21-2021)

a. **(U)** Naturalization under INA 322 is a permissible activity in B-2 status. You may issue a B-2 visa to an eligible foreign-born child to facilitate that child's expeditious naturalization pursuant to INA 322. The child must be under the age of 18 at the time INA 322 requirements are met. The child's intended naturalization, however, does not exempt the child from INA 214(b); the child must intend to return to a residence abroad after naturalization. A child whose parents are residing abroad will generally overcome the presumption of intended immigration, provided that the parents do not intend to resume residing in the United States, whereas a child whose parents habitually reside in the United States will not.

b. **(U)** If the applicant for a nonimmigrant visa (NIV) to facilitate naturalization under INA 322 is the adopted foreign-born child of a U.S. citizen who resides abroad and does not intend to reside permanently in the United States, you may issue a B-2 visa if the applicant:

- **(U)** Presents a USCIS-issued appointment notification signifying the child has an appointment for a naturalization interview regarding a Form N-600K, Application for Citizenship and Issuance of Certificate; and
- **(U)** Overcomes INA 214(b).

c. **(U)** Because the child is applying for a nonimmigrant visa (NIV), Form I-864, Affidavit of Support Under INA 213A, is not required because the child is applying for a nonimmigrant visa, not an immigrant visa subject to that requirement.

d. **(U)** The child would not qualify for a B-2 visa if the family were relocating to the United States. If this were the case, then the child would be required to have an immigrant visa (IV). You should not issue a nonimmigrant visa in lieu of the IR3/4 for an orphan or IR2 for an adopted child. The issuance of an NIV to an orphan who is an intending immigrant violates the law, places the child in an untenable immigration predicament, and circumvents the scrutiny intended to protect the orphan and the adoptive parents. The issuance of an NIV also does not accomplish the intended goal since the orphan cannot adjust status under DHS regulations.