



TRUMP RESORTS TO HEIGHTENED GOOD MORAL CHARACTER STANDARD AND ANTI-AMERICANISM TO DENY CITIZENSHIP AND IMMIGRATION BENEFITS

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The Trump Administration has been creatively finding ways to put obstacles in the path of people applying for US citizenship and other immigration benefits. In this latest obstacle, broad and amorphous terms such as “anti-Americanism” and “good moral character” have been deployed as ways to evaluate, and perhaps deny, a claim to citizenship, permanent residence or another immigration benefit.

Heightened Good Moral Character Standard

On August 19, 2025, USCIS issued a [Policy Alert](#) modifying the standard for evaluation of good moral character in the naturalization context to encompass a “holistic assessment of an alien’s behavior, adherence to societal norms, and positive contributions that affirmatively demonstrate good moral character”. The Policy Alert emphasizes that USCIS officers must now “account for an alien’s positive attributes and not simply the absence of misconduct”, and “place greater emphasis on an alien’s positive attributes and contributions in GMC determinations”, including:

- Sustained community involvement and contributions in the United States.
- Family caregiving, responsibility, and ties in the United States.
- Educational attainment.
- Stable and lawful employment history and achievements.
- Length of lawful residence in the United States.
- Compliance with tax obligations and financial responsibility in the United States.

This policy shift is a significant departure from the previous USCIS policy concerning good moral character. Although the INA does not specifically define good moral character, but USCIS had previously held naturalization applicants to the standard of an average U.S. citizen, rather than requiring them to provide evidence of exemplary character or contributions. See [*In re Mogus*, 73 F.Supp. 150 \(W.D. Pa. 1947\)](#); [*Petition of De Leo*, 75 F. Supp. 896 \(W.D. Pa. 1948\)](#); and [*Matter of Castillo-Perez*, 27 I&N Dec. 664 \(A.G. 2019\)](#). Holding naturalization applications to the standard of an average U.S. citizen is consistent with 8 C.F.R. § 316.10(a)(2), which also explicitly states that U.S. Citizenship and Immigration Services (USCIS) must consider "the standards of the average citizen in the community of residence" when assessing an applicant's claim of good moral character. The USCIS evaluated good moral character based on the absence of certain criminal convictions and other serious offenses. Not so anymore after the policy shift. Applicants for citizenship will not have to be prepared to provide positive evidence of good moral character at a naturalization interview. This would make it more onerous for applicants to include numerous documents to ensure that the examiner is satisfied with good moral character.

Indeed, USCIS seems to be elevating the standard that may not be contemplated in the INA or the regulations. For instance, USCIS spokesman Matthew J. Tragesser told [*Newsweek*](#): "U.S. citizenship is the gold standard of citizenship—it should only be offered to the world's best of the best. Today, USCIS is adding a new element to the naturalization process that ensures America's newest citizens not only embrace America's culture, history, and language but who also demonstrate Good Moral Character. This memo ensures that USCIS officers are accounting for an alien's positive contributions to American society—including community involvement, achievements, and financial responsibility rather than the absence of their misconduct. USCIS will continue to restore integrity in the nation's immigration system—especially when it comes to the prestigious privilege of citizenship."

According to the authors, it is not appropriate for the USCIS to require that an applicant demonstrate that they are the "world's best of the best." There is a separate category for immigration classification termed as the "person of extraordinary ability" pursuant to INA 203(b)(1)(A). If a naturalization applicant must demonstrate that they are the "world's best of the best" Congress should have required this in the INA and that is not the case. An applicant who is

otherwise eligible for naturalization and have not been convicted of a disqualifying offense should be able to become a citizen even if they may not be the “world’s best of the best.”

One may currently be unemployed because they cannot find a job or they have retired, but that should not be used against them for not having stable employment. Similarly, one may be law abiding but may not have sustained community involvement and contributions to the US. A naturalization applicant should be judged to the standard of an average US citizen and not to the “world’s best of the best.”

Anti-Americanism

On the same day, USCIS promulgated a second [Policy Alert](#) emphasizing that officers should assess whether a noncitizen has “endorsed, promoted, supported, or otherwise espoused the views of a terrorist organization or group, including those who support or promote anti-American ideologies or activities, antisemitic terrorism, antisemitic terrorist organizations, and antisemitic ideologies, in any case involving an exercise of discretion”. The Policy Alert highlights several case types where USCIS exercises discretion, including national interest waivers, requests for extension of stay, changes of status, reinstatement of F or M nonimmigrant status, and certain “EB-5 investor petitions and applications in cases involving threats to the national interest, fraud, deceit, misrepresentation, and criminal misuse”. “Anti-American ideologies or activities” are not defined in the Policy Alert, which [raises concerns](#) that the term could be applied in a way that is overbroad or punishes noncitizens for speech that is political or critical of the Trump administration.

The Policy Alert also references INA § 313(a) which provides that a noncitizen “(1) who advocates or teaches, or who is a member of or affiliated with any organization that advocates or teaches, opposition to all organized government; or (2) who is a member of or affiliated with (A) the Communist Party of the United States; (B) any other totalitarian party of the United States; (C) the Communist Political Association; (D) the Communist or other totalitarian party of any State of the United States, of any foreign state, or of any political or geographical subdivision of any foreign state; (E) any section, subsidiary, branch, affiliate, or subdivision of any such association or party...” is not eligible for naturalization.

INA§ 313(a), however, applies in the naturalization context, where good moral is

assessed more critically. This standard should not be used to determine whether a noncitizen's actions are anti-American and constitute a basis for denying an application for adjustment or reinstatement of status. This is especially true if a noncitizen's opposition to, for example, the Trump administration's tariffs or Israel's war in Gaza will be interpreted as anti-American outside the naturalization context.

The Trump Administration officials are constantly reminding noncitizens that being on a visa in the US or on a green card is a privilege and not a right, and noncitizens need to follow the law to ensure that they stay out of trouble. We beg to disagree. How does the USCIS define "anti-Americanism." Being critical of the Trump administration or for that matter any administration should not be deemed as anti-American. Indeed, it should be considered a virtuous activity to be critical of America or its administration as it is through criticism and dissent that we can reflect on all points of view, self-correct, grow and evolve.

The First Amendment provides that "Congress shall make no law ... abridging the freedom of speech, or of the press." The Supreme Court has made clear the Constitution's "freedom of speech and of press is accorded aliens residing in this country." *Wixon*, 326 U.S. at 148 (citing *Bridges*, 314 U.S. 252). The First Amendment does not "acknowledge[] any distinction between citizens and resident aliens." *Kwong Hai Chew v. Colding*, 344 U.S. 590, 596 n.5 (1953); *see also Wixon*, 326 U.S. at 161 (Murphy, J., concurring) ("nce an alien lawfully enters and resides in this country he becomes invested with the rights guaranteed by the Constitution to all people within our borders ... including those protected by the First Amendment." (cleaned up)).

This has been established law for more than 70 years. *See, e.g., Am.-Arab Anti-Discrimination Comm. v. Reno*, 70 F.3d 1045, 1065 (9th Cir. 1995) ; *Rafeedie v. I.N.S.*, 795 F. Supp. 13, 22 (D.D.C. 1992) ("It has long been settled that aliens within the United States enjoy the protection of the First Amendment") (footnote and citations omitted). That is because the First Amendment operates as a restraint on government subjecting those under its power to disfavored treatment based on their opinions. *See generally Pahls v. Thomas*, 718 F.3d 1210, 1239 (10th Cir. 2013).

The Trump Administration cannot broadly use anti-Americanism as a cudgel to punish noncitizens for speech it disfavors. This is antithetical to the principles set forth in the First Amendment. Deploying anti-Americanism as a weapon to

punish noncitizens or would be entrants to the US would also diminish America's standing in the world and would place it on par with a pariah totalitarian state.

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