



UNCLASSIFIED  
MEMORANDUM

December 26, 2013

TO: CA PPT – Regional Directors, Directors, Assistant Directors

THROUGH: CA PPT – Florence G. Fultz

FROM: CA PPT/S – Barry J. Conway *BJC*

SUBJECT: Meaning of “Legal Custody” under Former INA Section 321

Former Immigration and Naturalization Act (INA) Section 321 was repealed as of February 27, 2001 by the Child Citizenship Act of 2000. However, persons may still be documented as U.S. citizens if they can show that they have met the requirements of former INA 321 prior to its repeal.

One of the circumstances in which INA 321 provided for acquisition of U.S. citizenship (7 FAM 1158.4) was 321(a)(3):

The naturalization of the parent having legal custody of the child when there has been a legal separation of the parents...

The phrase “the parent having legal custody” includes a parent who has *joint* legal custody; i.e., it is not necessary for the naturalized parent in the circumstances described in 321(a)(3) to have *sole* legal custody in order to transmit citizenship at the time of naturalization. All other conditions under the statute must still be met.

Please share this memo with your staff.

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