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THE CITADEL  
The Military College of South Carolina  
171 Moultrie Street  
Charleston, SC 29409

MEMORANDUM  
NUMBER 5-119

2 December 2019

## **IMMIGRATION SPONSORSHIP POLICY**

### **1. PURPOSE**

This policy sets forth The Citadel's policies and procedures for the sponsorship of both Non-Immigrant and Immigrant Visas.

### **2. REFERENCE**

U.S. Citizenship and Immigration Services

U.S. Department of Labor

### **3. DEFINITIONS**

- A. H-1B Visa: A non-immigrant visa that allows US employers to temporarily employ foreign workers in specialty occupations. The employer petitions for the H-1B visa and the employee is the beneficiary of the visa. H-1B visas are valid for three years and can be extended once for an additional three years. The application process for extension is the same as the initial petition except the Fraud Detection Fee is not needed again. H-1B visas for institutions of higher education are cap-exempt and always available.
- B. I-129 Form: A form submitted to the United States Citizenship and Immigration Services used by employers or prospective employers to obtain (or amend the details of) a worker on a nonimmigrant visa status. Form I-129 is used to either file for a new status or a change of status, such as new, continuing or changed employer or title; or an amendment to the original application. Approval of the form makes the worker eligible to start or continue working at the job (on or after the indicated start date) if already in the United States. If the worker is not already in the United States, an approved Form I-129 may be used to submit a visa application associated with that status.
- C. Lawful Permanent Residency: Lawful permanent residency allows individuals to work and live in the United States permanently. A foreign national non-immigrant may adjust status in the United States to the status of a lawful permanent resident through an immigrant visa. The class that changes the individual from "non-

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immigrant” to “immigrant” status, allowing individuals to live and work permanently in the U.S. It is the first step towards citizenship.

- D. Program Electronic Review Management (PERM): The U.S. Department of Labor electronic labor certification system.
- E. Recruitment Report: A letter from the Hiring Official and/or Department Head which summarizes the recruitment efforts. The report details the selection process including name, result of submission, and specific reason for rejection as well as detailed information on those interviewed. The report will also attest to the qualifications of the selected applicant.
- F. Student and Exchange Visitor Information System (SEVIS): U.S. Immigration and Customs Enforcement program used to administer the Student and Exchange Visitor Program (SEVP).
- G. Student and Exchange Visitor Program (SEVP): A program within U.S. Immigration and Customs Enforcement, which is under the U.S. Department of Homeland Security, to manage foreign students and exchange visitors in the United States through the Student and Exchange Visitor Information System (SEVIS).
- H. TN Visa: A non-immigrant visa available only to citizens of Canada and Mexico who seek entry into the U.S. to engage in business activities at a professional level. Eligibility is established for Canadians through admission to the U.S. by presenting required documentation to a U.S. Customs and Border Protection officer at designated U.S. ports of entry or at a designated pre-clearance/pre-flight inspection station. Eligibility is established for Mexican nationals through the United States consulate in Mexico City. TN visas are valid for three years and can be extended once for an additional three years.

#### **4. POLICY**

The Citadel, at its sole discretion, may file a non-immigrant or immigrant visa petition for a full-time permanent employee.

It shall be the responsibility of each Department Head and/or Hiring Official to determine that the provisions of this policy are administered in the best interest of The Citadel. The Department Head must receive approval from the Provost/VP and Human Resources to initiate the immigration filing. It is recommended that departments begin the non-immigrant visa process six months in advance of the desired start date and the immigrant visa process no less than six months after the actual start date but no more than 12 months after the initial selection date. After Departmental eligibility confirmation and approvals are received, the Office of Human Resources will begin the application and submission.

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A. Non-Immigrant Visas:

1. Upon the request of a hiring officer or department head, The Citadel will file I-129, Petition for Non-Immigrant Workers for Specialty Workers and the accompanying Labor Condition Application for new hires needing extensions of their current nonimmigrant status and new hires needing initial nonimmigrant status.

Human Resources will produce the DS-2019 for the hiring department and will cover the SEVIS fee.

2. The Citadel will request up to three years of additional non-immigrant status starting on the new hire's actual start date.
3. The Citadel will pay for all mandatory filing fees associated with every non-immigrant visa petition or extension for the principle beneficiary. The Citadel will also cover any visa fees that accrued as a result of consular processing.
4. Non-mandatory, premium processing fees to expedite the application will be the responsibility of the beneficiary.
5. The beneficiary will be responsible for all filing fees and attorney fees for dependents, though The Citadel agrees to cooperate with any such applications and will include with the beneficiary's submission.
6. The beneficiary agrees to cooperate fully with all efforts by The Citadel to seek non-immigrant status.

B. Immigrant Visa (Lawful Permanent Residency or "Green Card"):

1. The hiring officer or department head may request that The Citadel begin the immigrant visa process for any new hires who have been selected through a competitive process no earlier than six months after the new hire's start date. However, the hiring officer or department head should in no situation fail to make such request more than 12 months after the new hire's actual selection date.
2. Hiring officials are required to complete and sign a "recruitment report" prior to filing. Failure to do so could delay or jeopardize the filing.
3. The Citadel will cover all costs and fees associated with the labor certification process with the United States Department of Labor. The beneficiary will not be responsible for any such costs.

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4. Upon receipt of the approved labor certification (or PERM), The Citadel agrees to pay the filing fees for filing an I-140, Petition for Immigrant Worker and the consular processing fees for the beneficiary.
  5. The preparation of the I-485, Application for Adjustment of Status, including the fees and any associated attorney fees, are the responsibility of the beneficiary.
  6. The beneficiary will be responsible for all filing fees for derivatives, though The Citadel agrees to cooperate with any such applications.
- C. Though The Citadel agrees to apply for and cooperate with any applications for non-immigrant and immigrant status, it shall not be responsible for any outcomes of any such applications for a beneficiary or dependent. The Citadel also agrees not to discriminate against any applicant or new hire on any protected basis or need for immigration benefits. Further, all other inquiries for different types of visas will be dealt with on a case by case basis at the sole discretion of The Citadel. Further, regardless of a pending petition or application, all new hires remain at will employees and may be discharged at any time.
- D. The language used in this document does not create an employment contract between the employee and the agency. This document does not create any contractual rights or entitlements. The agency reserves the right to revise the content of this document, in whole or in part. No promises or assurances, whether written or oral, which are contrary to or inconsistent with the terms of this paragraph create any contract of employment.

## **5. COMPLIANCE**

Failure to comply with this policy may result in disciplinary action up to and including termination.

## **6. NOTES**

### **A. Dates of official enactment and amendments:**

Approved by the Vice President for Finance and Business on 2 December 2019

### **B. Responsible Department:**

Human Resources

### **C. Responsible Official:**

Chief Human Resources Officer

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## **7. RESCISSION**

The Citadel Immigration Sponsorship Policy dated 1 January 2012 is rescinded.

## **8. REVIEW**

Review this policy on a biennial basis.

FOR THE PRESIDENT:

OFFICIAL

//Signed, CLC, 2 December 2019//  
CHARLES L CANSLER  
Colonel, SCM  
Vice President for Finance and Business