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## SOLDIER'S GUIDE TO IMMIGRATION SERVICES AND INFORMATION

**Introduction:** The information in this primer is designed to guide Soldiers on immigration services.

### Naturalization

Members of the U.S. armed forces who have served honorably may be eligible for naturalized citizenship. Honorable service in the National Guard refers to service in a federally recognized reserve component of the U.S. armed forces. There are two types of naturalization: (1) peacetime naturalization, and (2) naturalization during hostilities.

#### Peacetime Naturalization

To be eligible for naturalization under 8 USC § 1439 during peacetime, a service member must have served honorably for at least one year. Applicants must further establish they meet all of the criteria listed below:

- Must have served honorably in the U.S. armed forces for a minimum of one year
- Must be at least 18 years of age
- Must be a lawful permanent resident at time of examination of their application
- Must meet certain residence and physical presence requirements
- Must be able to read, write, and speak English
- Must demonstrate knowledge of U.S. history and government
- Must demonstrate good moral character for at least five years immediately preceding his application
- Must have attachment U.S. Constitution principles and be well disposed to the good order and happiness of the U.S. during all relevant periods under the law
- Must have continuously resided in the United States for at least five years and have been physically present in the United States for at least 30 months out of the 5 years immediately preceding the date of filing the application, UNLESS the applicant has filed an application while

still in the service or within 6 months of separation. In the latter case, the applicant is not required to meet these residence and physical presence requirements.

### Naturalization During Hostilities

To be eligible for naturalization under 8 USC § 1440 during hostilities, a service member need only have served one day of qualifying service. Applicants must further establish they meet all of the criteria listed below:

- May be of any age
- Must have served honorably in the U.S. armed forces, during a designated period of hostility, for at least one day
- Must be either a lawfully permanent resident or have been physically present at the time of enlistment, reenlistment, or extension of service or induction into the U.S. armed forces:
  - In the United States or its outlying possessions, including the Canal Zone, American Samoa, or Swains Island, or
  - On board a public vessel owned or operated by the United States for noncommercial value
- Must be able to read, write, and speak English
- Must demonstrate knowledge of U.S. history and government
- Must demonstrate good moral character for at least five years immediately preceding their application
- Must have attachment to U.S. Constitution principles and be well disposed to the good order and happiness of the U.S. during all relevant periods under the law

### Visas

There are several types of visas available for individuals seeking to remain in the United States including; employment based visas and marriage-based visas. This primer will only address the different types of marriage-based visas.

Spousal Visas: If a soldier marries outside the United States there are two ways to bring their foreign spouse to the U.S. to live. The first is an Immigrant visa for a Spouse of a U.S. Citizen. The first step is to file a Petition for Alien Relative (Form I-130) with the Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS). After USCIS approves the petition, the application is then sent to the National Visa Center (NVC) where

a case number will be assigned and further instructions will be provided. Once all the fees are paid and the required documentation submitted, the NVC would then schedule the applicant interview with the U.S. Embassy or Consulate where the applicant resides.

The second way to bring a foreign spouse to the United States is through a Nonimmigrant visa for spouse (K-3). It is important to note that with a K-3 visa the application must be filed and issued in the country where the marriage took place. After the visa process has been completed and the visa issued, the foreign spouse can then travel to the United States and wait for the visa case to process. With a K-3 visa there are two petitions required; Form I-130, and Petition for Alien Fiancé, Form I-129F.

In addition, if a Soldier marries a foreigner who is in the U.S. illegally there are options to help them obtain a visa. When a foreigner enters the country illegally there is very little that can be done to make them legal; however, there are a few exceptions.

One of these exceptions is if those foreigners are married to US military personnel, active or reserve, they can then obtain a visa without the need of returning to their home country through a process called Parole in Place (PIP). PIP is a petition to USCIS requesting that their spouse be able to remain in the U.S. so that an Adjustment of Status (Form I-485) can be filed. Once you have obtained approval for Parole in Place, you can then proceed to apply for a spousal visa and adjustment of status.

K-Visas: The fiancé K-1 visa permits a foreign citizen fiancé to travel to the United States to marry a U.S. citizen within 90 days of arrival. Once married the applicant can then apply for an adjustment of status to a permanent resident and remain in the United States while USCIS is processing the application. If a foreign citizen fiancé has eligible children they may apply for a K-2 visa. Each child must submit a separate application.

Adjustment of Status: Adjustment of status is a procedure that allows an applicant to become a permanent resident of the United States without having to return to their home country and apply for an immigrant visa.

Length of time: The time it takes to fill out and file the initial application will depend on each individual case and the amount of information required for filing. Once NVC has received your case the length of time for process will vary from case to case depending on your circumstances. In most cases the entire process usually takes approximately 10 to 12 months.

## **Additional Resources**

In Arkansas there are a few nonprofit organizations that can assist with immigration legal services at little or no cost. Catholic Charities Immigration Services has an office in Little Rock and in Springdale. You can reach the Little Rock office at (501)-664-0340 and the Springdale office at (479)-927-1996. In Fayetteville, the University of Arkansas School of Law offers an immigration clinic to assist in many different areas. You can contact the clinic for intake hours at (479)-575-3056. US Citizenship and Immigration Services (USCIS) offers a toll-free military help line exclusively for members of the military and their families at 1-877-CIS-4MIL (1-877-247-4645). Additionally, all immigration forms and instructions are available at the USCIS website at [www.uscis.gov](http://www.uscis.gov).

This handout is distributed by the Arkansas Office of the Staff Judge Advocate, Office of Legal Assistance as a preventive law service. This document and other helpful information on similar personal legal affairs topics can be found on the office's website located at <https://arkansas.nationalguard.mil/Home/JAG-Legal/>

For more information on this topic or to consult with a legal assistance attorney contact the Arkansas National Guard Office of Legal Assistance at 501-212-5040 to establish eligibility and appointment times.