

**Memo re "Immigrant/Non-Immigrant
Visa/Work Applications" (06/20/00)**

**Note: To be added to Administrative
Handbook Revision**



THE ARCHDIOCESE OF SAN FRANCISCO

LEGAL OFFICE

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MEMORANDUM

TO: Sr. Glenn Anne McPhee

FROM: Jack M. Hammel

DATE: June 20, 2000

RE: Immigrant/Non-immigrant Visa/Work Applications

Per our telephone discussion of June 19th, I have set forth below a little summary of the key issues pertaining to Visa/Work Applications, including the matter of "Sponsorships", which you can include in your Handbook.

Immigrant/Non-immigrant Visa/Work Applications

There are a variety of immigrant and non-immigrant visa categories, each having specific qualifications for entrance into the United States and compliance standards to remain in the country. Some visa applications may request "sponsorship" by family members, employers, etc. Under no circumstances may pastors, principals, or agency heads sign or co-sign any type of document which would guarantee continued employment and/or guarantee to the government that an applicant will not become a financial burden on the State.

An area of particular concern to the U.S. Immigration Office (INS), as well as the United States Catholic Conference, is the potential abuse of the so-called "religious worker" or "R-1" Visa category. The government sets aside a relatively small number of this type of visa for individuals from all denominations. Both the INS and the State Department have stated that a layperson who wants to be qualified as having a religious occupation must perform activities that embody the tenets of religion and have a religious significance. That is, the applicant must establish that the prospective work activities are primarily, if not exclusively, "religious" and that there is a unique need for the proposed foreign workers' services. Since the number of religious worker visas are limited, it is important to remember that every time a non-essential person gets a religious worker visa, some legitimate minister, nun, or unique lay religious worker loses an opportunity for a visa.

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Given the above, the following policies and procedures shall apply with respect to proposed R-1 Visa applications:

1. Priest applicants interested in serving on behalf of Archdiocesan institutions will be channeled through the Auxiliary Bishop's office. If there is interest in the services of a particular priest, he will be referred by the Auxiliary Bishop to the Catholic Legal Immigration Network, Inc. (CLINIC) for visa processing. No pastor, principal or agency head may make any such referral or sign any letter of financial responsibility.
2. Any referral of religious who will serve in the Archdiocese must be approved and recommended for the service by their Major Superior who will initiate their visa application and assume responsibility for all costs entailed in obtaining said visa. Such application will be approved by the Vicar for Religious. No pastor, principal, or agency head may make such a referral or sign any letter of financial responsibility.
3. With regard to laypersons who wish to perform "religious work" on behalf of Archdiocesan institutions, the following shall apply:
 - (a) Laypersons must be cleared and referred to CLINIC *via* a Vicar General at the Chancery.
 - (b) The proposed position must involve *bona fide* religious work so as not to compromise the integrity of the overall immigration process applicable to clerics, religious, and laypersons who apply for religious worker visas from the INS. Any proposed referrals submitted to the Chancery must include a detailed job description which will be screened by the Chancery and CLINIC. Permission for laypersons to pursue R-1 Visa work at Archdiocesan institutions will only be granted in those rare circumstances where a Vicar General finds performance of such work by the particular individual to be vital to the local church. That is, the position must be one for which the foreign worker is uniquely needed and qualified.

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- (c) If a layperson is approved for referral to CLINIC to commence the visa process, the normal expectation is that the individual will be responsible for all CLINIC fees. In exceptional circumstances, the parish, school, or agency may pay the fees but, given the possibility that the employment relationship may terminate, under no circumstances may any parish, school, or agency personnel guarantee that the employment relationship will continue for a specified period of time or sign any letter or affidavit assuming financial responsibility for the individual.

- (d) The Chancery will not review, nor authorize parishes to pay for, applications for immigration work done by non-CLINIC lawyers and/or immigration workers. The reason is that the Archdiocese is familiar with CLINIC's personnel, expertise, and very reasonable fees.

JMH:jn