



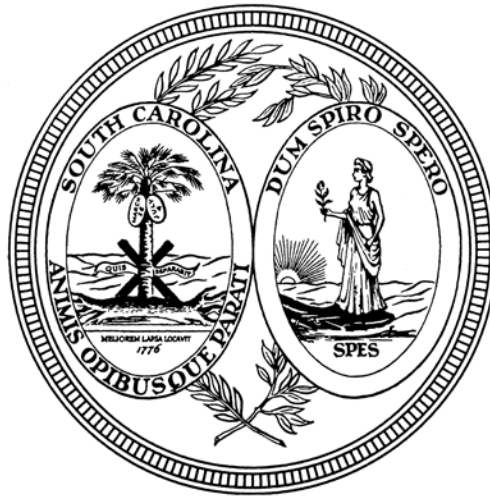
LAC

SOUTH CAROLINA GENERAL ASSEMBLY

Legislative Audit Council

October 2017

A LIMITED REVIEW OF THE CITADEL



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Introduction and Background

Audit Objectives

Members of the S.C. General Assembly requested that we conduct an audit of The Citadel, The Military College of South Carolina. They requested that we review specific issues such as the relationship between the Board of Visitors (BOV) and the President, including the employment of faculty and staff, and the discipline of cadets. In addition, we were asked to review the President's compensation package.

We conducted survey work at the college, reviewed relevant documentation, and consulted with the primary audit requestor to clarify and define issues for review. Our audit objectives are as follows:

- Review the cadet discipline process to determine how it functions, what involvement the Board of Visitors and the President have in appeals, and if the process has been equitably applied.
- Review the college's hiring practices and qualifications for staff and faculty to ensure compliance with state laws and regulations.
- Determine how the compensation package for the college's President is established.
- Review the college's management of state appropriations and other funds.
- Review other issues, including placement of the internal auditor and compliance officer, FOIA compliance, composition of the Board of Visitors, and classification of staff.

Scope and Methodology

The period of our review was generally years 2012 through 2016, with consideration of earlier and more recent periods when relevant. To conduct this audit, we used a variety of sources of evidence, including the following:

- LAC survey of all Citadel faculty and staff.
- LAC survey of all current and immediate past members of the Board of Visitors.
- Interviews with Citadel employees, employees of other state agencies, and officials from other states.
- Federal and state laws and regulations.
- Cadet disciplinary records.
- Citadel budget and other financial documentation.
- Citadel Blue Book and White Book.
- Citadel policies and procedures.
- Citadel College Regulations.
- Human resources' files and other documentation.
- Banner® records (Banner® is a higher education information system).
- Citadel Board of Visitors' meeting minutes.
- Procurement contracts and invoices.
- Capital project and related lease documentation.
- Title IX investigation files.
- The Citadel Foundation financial statements.

Criteria used to measure performance primarily included state and federal laws, college regulations and policies, the practices of other state colleges or universities, and principles of good business practices and financial management. We used several non-statistical samples of human resources files, cadet records, and expenditures, all of which are described in the audit report. We reviewed internal controls in several areas, including the handling of state funds, administration of disciplinary actions, and hiring practices. Our findings are detailed in the report.

We also interviewed staff regarding various information systems used by the college. We determined how the data was maintained and what the various levels of control were. We reviewed internal controls of the systems in several areas.

We conducted this performance audit in accordance with generally accepted government auditing standards, with one exception (see *Scope Impairment*). Those generally accepted government auditing standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

S.C. Code §2-15-50(b)(2) requires us to review the effectiveness of an agency to determine if it should be continued, revised, or eliminated. We did not conclude from this review that The Citadel should be eliminated; however, our audit includes recommendations for improvement in several areas.

Scope Impairment

Generally accepted auditing standards require us to report significant constraints imposed upon the audit approach that limit our ability to address audit objectives. One of our primary audit objectives was to review the cadet disciplinary process, including appeals, what role the Board of Visitors (BOV) and the President play in discipline, and if the process is fair and equitable. During our fieldwork, an expulsion appeal was presented to the Board of Visitors. We were not allowed to observe the cadet's or the college's presentation to the BOV regarding the case, nor were we allowed to observe deliberations by the Board. We, therefore, have no firsthand knowledge of the Board of Visitors' entire role in the appeal's process. We noted our limitations in this area in the report.

During the audit, we also attempted to attend, either in person or by telephone, every BOV meeting, including teleconference meetings of the individual committees of the BOV. From February 15, 2017 (entry conference date) to July 27, 2017, there were at least 17 meetings of the full BOV or a committee of the BOV. There were at least six instances where the meeting agenda called for an executive session. We were not allowed to observe or listen to any part of any of these executive sessions, as is our usual protocol during audits.

S.C. Code §2-15-61 gives us access to all records and facilities of an agency under review. Even though we have the authority to attend any and all executive sessions of boards or commissions under review, we agreed to excuse ourselves in specific instances where legal advice was given from the college's General Counsel to the BOV. For all executive sessions, the college stated that the BOV was receiving legal advice throughout the executive session even though the agenda did not state that legal advice was part of the executive session and it was clear that other information had been discussed based on conversations after executive session was closed.

Since the college blocked our observations of executive sessions of the BOV, our ability to effectively review the BOV's involvement in running the college was hindered.

LAC Surveys

LAC Survey of Faculty and Staff

We surveyed all faculty and staff in April 2017 using SurveyMonkey® by mailing a link to the survey to all employees of The Citadel. Questions were designed to obtain anonymous feedback on issues involving cadet discipline, BOV involvement in various aspects of the college, composition of the BOV, and allowed for general comments. We had a 43.3% (451 of 1,041) response rate.

LAC Survey of Board of Visitors' Members

We surveyed all current members of the Board of Visitors and former members (over the past 10 years) in April 2017 using SurveyMonkey®. Questions were designed to obtain anonymous feedback on issues involving relationships with the college administration, the roles and composition of the Board of Visitors, and general feedback/comments. We had a 44% (11 of 25) response rate.

Results of the surveys are in Appendix A – LAC Survey of Citadel Faculty and Staff and Appendix B – LAC Survey of Current and Former Members of The Citadel Board of Visitors. Also open-ended responses from both surveys were summarized and referenced throughout the report.

Background

The Citadel, established in 1842, is a public, four-year institution with approximately 2,300 members of the Corps of Cadets. It is one of six military colleges in the United States. The Citadel Graduate College has approximately 1,200 students. According to the college's website, The Citadel's mission is to educate and develop students to become principled leaders by instilling core values of The Citadel in a disciplined and intellectually-challenging environment. A unique feature of this environment for the Corps of Cadets is the sense of camaraderie produced through teamwork and service to others while following a military lifestyle.

As of April 2017, the Citadel employed 1,041 (658 full-time and 383 part-time) faculty and staff. Its budget for FY 16-17 was \$146,926,357, with \$10,058,294 in state appropriations.

Board of Visitors

Delegation of Authority to the President and the Administration

The Board of Visitors (BOV), in amending the College Regulations over the last ten years, has delegated much of its statutorily-provided power and authority to the President and administration of the college. We reviewed and compared the 15 different versions of the College Regulations that have been in effect over the last ten years and found that amendments were frequent and appeared to be reactive in nature.

S.C. Code §59-121-10, *et seq.*, establishes The Citadel and its Board of Visitors. Pursuant to these enabling statutes, the Board of Visitors *may*:

- Establish regulations for the organization and good government of the college and establish bylaws.
- Appoint professors to give instruction in military science and other branches of knowledge, and fix their salaries and the period for which they serve.
- Confer degrees on graduates of the college.

The position of President is not mentioned in the college's enabling statutes. State law empowers the Board of Visitors with full control of, and authority over, the college. Any authority granted to the President, or the college administration, must be specifically delegated by the Board of Visitors, *and may be rescinded by the Board* at any time.

At its June 2007 meeting, the Board of Visitors amended the "Charge of the Board of Visitors" in Section IX of the College Regulations from "The direction and supervision of the College are the responsibility of the Board of Visitors [period]" to "The direction and supervision of the College are the responsibility of the Board of Visitors, *while delegating the administration to the President and his administrative officers.*" [emphasis added]

At its August 2013 meeting, the Board of Visitors further amended the College Regulations to clarify that the BOV "defines the mission, role, and scope of The Citadel, establishes the general policies of the College, approves the budget for each fiscal year, and provides accountability to the public and the General Assembly."

While a governing board may be comfortable delegating much of its statutorily-provided authority to a president when there is a good working relationship with the person holding the position, a board should be mindful that these policies should apply to the position, and not the person who currently holds it.

Board Involvement in Hiring of Vice Presidents

The Board of Visitors, by its own actions, has gradually removed itself from the process of hiring the vice presidents of the college.

In August 2013, the BOV changed language in the College Regulations stating “The Board *appoints* [emphasis added], on the recommendation of the President, all Vice Presidents...” to “On the recommendation of the President, the Board *reviews the selection* [emphasis added] of Vice Presidents and provides guidance for their contracts...” These changes made it clear that the President, and not the BOV, was the hiring authority for college vice presidents.

At the BOV’s June 2014 meeting, this section was further amended to state, simply, “the Board reviews the selection of Vice Presidents.” The language regarding contracts was deleted.

Board Composition

We found that The Citadel’s governing body, the Board of Visitors (BOV), is substantially different from those of the other public institutions of higher education in South Carolina. Changes could be made to increase diversity on the Board, ensure equal geographic representation, and allow for the involvement of individuals who have vested interests in the institution but are not graduates of the college. Changes would also bring the composition of the Board more in line with those of the other public colleges and universities in South Carolina, as shown in Table 2.1.

Currently, the Board is composed of 11 members who are statutorily required to be graduates of the college — 7 elected by joint vote of the South Carolina General Assembly, 3 elected by The Citadel Alumni Association, and 1 appointed by the Governor. All members represent the state at-large and serve six-year terms. Additionally, the Governor, Secretary of Education, and Adjutant General serve as ex officio members of the Board.

Table 2.1: Composition of Public College and University Governing Boards in South Carolina

INSTITUTION	GENERAL ASSEMBLY			GOVERNOR			ADJUTANT GENERAL	SUPERINTENDENT OF EDUCATION	ALUMNI DIRECT ELECTION OR APPOINTMENT	"LIFE" TRUSTEES	TOTAL MEMBERS
	ELECTED FROM CONGRESSIONAL DISTRICTS	ELECTED FROM JUDICIAL CIRCUITS	ELECTED AT-LARGE	APPOINTMENT AT-LARGE	RECOMMENDATION OF ALUMNI	EX OFFICIO OR DESIGNEE					
CLEMSON	–	–	6	–	–	–	–	–	–	7	13
COASTAL CAROLINA	7	–	8	1	–	1	–	–	–	–	17
COLLEGE OF CHARLESTON	14	–	3	1	1	1	–	–	–	–	20
FRANCIS MARION	7	–	8	1	–	1	–	–	–	–	17
LANDER	7	–	8	1	–	1	–	–	–	–	17
MUSC	14	–	–	1	–	1	–	–	–	–	16
S.C. STATE	7	–	5	–	–	1	–	–	–	–	13
THE CITADEL	–	–	7	1	–	1	1	1	3	–	14
USC	–	16	–	1	–	1	–	1*	1	–	20
WINTHROP	7	–	3	1	–	1	–	1	2	–	15
TOTAL	63 (38.89%)	16 (9.88%)	48 (29.63)%	8 (4.94%)	1 (0.62%)	9 (5.56%)	1 (0.62%)	3 (1.85%)	6 (3.70%)	7 (4.32%)	
	GENERAL ASSEMBLY 78.40%			GOVERNOR 11.11%			OTHER STATEWIDE ELECTED OFFICIALS 2.47%		ALUMNI 3.70%	LIFE MEMBER 4.32%	

* May appoint a designee.

Source: S.C. Code of Laws

Requirement that BOV Members Be Graduates of the College

By state law, The Citadel is the only public college or university in South Carolina with a governing board whose members must be graduates of the institution. While The Citadel is the state's only military college, it is not so unique as to justify its governing board being much different from those of the other public colleges and universities.

This requirement may limit the talent pool and diversity on the Board. For example, a parent of a graduate of the Corps of Cadets who might be actively engaged in supporting the college, financially and otherwise, would not have the opportunity to serve on its governing Board.

Three-quarters (74.8%) of the college's faculty and staff who responded to the LAC survey believe that the Board of Visitors' membership should include both graduates and non-graduates. Additionally, numerous administrators at the college indicated that the composition of the Board and its appointment/election methods could be improved.

Virginia Military Institute (VMI), located in Lexington, Virginia, is a state-supported military college that is often cited as a comparable institution to The Citadel. VMI's governing board has 16 members who are appointed by the governor of Virginia and subject to confirmation by the Virginia General Assembly. Of those, 4 must be non-alumni and 12 must be alumni. The 4 non-alumni must be residents of Virginia and 4 of the 12 alumni members must be non-residents of Virginia. Virginia's adjutant general also serves on the board ex officio.

Members Elected by The Citadel Alumni Association

The Citadel is one of only two public institutions in South Carolina with members of the board elected directly by an alumni association. Winthrop University has two alumni-elected members on its board. Additionally, the president of the University of South Carolina (USC) alumni association serves ex officio on USC's Board of Trustees.

S.C. Code §59-121-10 contains archaic language referencing the "Association of Citadel Men or any succeeding organization of Citadel men." This language should be amended to reflect that the organization is now the "The Citadel Alumni Association," an organization that represents all graduates of the college, including women.

The past two chairmen of the Board of Visitors have been alumni association-elected members, meaning they were not accountable to the General Assembly or, by extension, the citizens and taxpayers of South Carolina. It is not appropriate for a nongovernmental entity to directly elect members to the governing board of a public institution.

At the College of Charleston, the Board of Trustees includes one member who is appointed by the Governor upon the recommendation of the alumni association. This is a more appropriate method for ensuring active alumni representation on a governing board than through direct election of board members by alumni associations or similar organizations that are not accountable to the General Assembly or the Governor.

Lack of Guaranteed Statewide Geographic Representation on the BOV

Only two of the ten state colleges and universities, The Citadel and Clemson University, lack seats on their governing boards to represent particular geographic areas, whether congressional districts or judicial circuits. It is possible, as statute is now written, that every member of the Board of Visitors could live in just one county.

Changing the at-large seats to represent each of the seven congressional districts would bring The Citadel's governing Board more in line with the other boards of public institutions in the state, and ensure that all geographic regions of the state are represented.

Potential Violation of Dual Office Holding Prohibition

While reviewing the composition and membership of the Board of Visitors, we found that the state code commissioner, who is the director of the Legislative Council (a legislative agency that provides research and bill drafting services to the General Assembly and codifies state laws) also serves as an elected member of the Board. Although there is a statutory provision that exempts the position of code commissioner from the constitutional prohibition on dual office holding, the appropriateness of this exemption is questionable.

Article VI, Section 3 of the S.C. Constitution states:

No person may hold two offices of honor or profit at the same time. This limitation does not apply to officers in the militia, notaries public, members of lawfully and regularly organized fire departments, constables, or delegates to a constitutional convention.

In 1976, the code commissioner at the time had also served as chair of the Richland County Recreation Commission for many years. That year, the Office of the Attorney General issued an opinion that membership on the Richland County Recreation Commission and serving in the position of code commissioner/director of the Legislative Council violated the constitutional prohibition on dual office holding as both positions constituted “offices.”

Eleven years later, in 1987, the same individual still served in both positions. That year, language from a proviso in the annual appropriations act was codified in S.C. Code §2-13-70 stating, “The position of Code Commissioner does not constitute an office referred to in Section 3, Article VI of the State Constitution.” It appears that this statutory language was codified to benefit one individual who held these two offices 30 years ago. It is the only exemption existing for a specific position or office in state government. We found no reasonable justification for the exemption to remain in the S.C. Code of Laws.

Inability of Ex Officio Members to Appoint Designees

We found that the ex officio members of the Board of Visitors are not actively involved with the BOV and that one of these officials has appointed a designee to serve in her place, which is not allowed by state law.

S.C. Code §59-121-10 does not allow for the three statewide-elected officials who serve ex officio on the Board to appoint designees to serve in their places. This practice is permitted by statute for other public college or university governing boards with statewide-elected officials holding ex officio seats. In 2016, the Superintendent of Education appointed a designee who has participated in meetings of The Citadel Board of Visitors.

Neither the Governor nor the Adjutant General have attended or participated in any BOV meetings in at least the last two years. This may be why governing statutes for other institutions allow for the option of selecting a designee to serve in their steads.

Recommendations

1. The General Assembly should amend S.C. Code §59-121-10 to require that at least a minority of the membership of the Board of Visitors includes non-alumni members.
2. The General Assembly should amend S.C. Code §59-121-10 to replace “Association of Citadel Men or any succeeding organization of Citadel men” with “The Citadel Alumni Association.”
3. The General Assembly should amend S.C. Code §59-121-10 to allow for the appointment of three members to the Board of Visitors by the Governor upon the recommendation of The Citadel Alumni Association, instead of direct election by the association.
4. The General Assembly should amend S.C. Code §59-121-10 to require that seven members of the Board of Visitors are elected by the General Assembly to specific seats representing each of the state’s seven congressional districts.
5. The General Assembly should amend S.C. Code §2-13-70 to delete the following language: “The position of Code Commissioner does not constitute an office referred to in Section 3, Article VI of the State Constitution.”
6. The General Assembly should amend S.C. Code §59-121-10 to allow the ex officio members of the Board of Visitors — the Governor, Superintendent of Education, and Adjutant General — to appoint designees to serve and vote in his or her place.

LAC's Inability to Attend Board Appeal

One of our primary audit objectives was to review the cadet disciplinary process, particularly the role of the Board of Visitors (BOV) in appeals. During our fieldwork, an expulsion appeal was presented to the BOV. We were not allowed to observe the cadet's or the college's presentation to the BOV regarding the case, nor were we allowed to observe deliberations by the Board. We, therefore, have no firsthand knowledge of the Board's role in the appeal process. We reported this as a scope impairment to our audit. The LAC's enabling statutes, S.C. Code §2-15-10, *et seq.*, give us access to all records and facilities of state agencies, which has been interpreted to include executive sessions of governing boards.

In this case, the cadet was appealing an expulsion for being found in violation of "conduct unbecoming a cadet." After more than two hours of deliberations, the BOV voted to remand the case to the President for reconsideration. The President upheld the expulsion.

The Citadel's Efforts to Keep LAC Auditors Out of the Appeal Hearing

The Citadel's General Counsel communicated to us that we could not be in the room during executive session for the appeal. He said that outside counsel would be with the members providing legal advice and that our very presence would be depriving the cadet the right to due process. We agreed to step out during legal advice but we later came to the conclusion that to ensure the cadet's rights were not hindered in any way, we would not attend the Board's deliberations.

Prior to the hearing, we received notice from the college's outside counsel letting us know that the cadet's attorney had requested that the *entire appeal hearing* be closed. We were subsequently told that the college's in-house General Counsel had called the cadet's attorney and told him that they should invoke FERPA (Family Educational Rights and Privacy Act) rights to keep us out of the hearing, and implied that the media may be present if the hearing were open. We were also told that it was the college's decision, rather than the cadet's, to prevent us from attending.

While discussing our concerns with the BOV chairman about being prevented from attending the hearing, he stated that he wanted the deliberations of the Board members to be unimpeded. However, when we subsequently asked why the whole appeal proceeding was closed to us and not just the Board's deliberations, he responded that "the cadet requested that it be closed." We asked if other proceedings for appeals had been closed in the past and he responded that, "generally, they had been open."

Recommendation

7. The General Assembly should amend S.C. Code §2-15-10, *et seq.*, to clarify that the Legislative Audit Council has access to executive sessions of governing bodies (boards, commissions, etc.) of state agencies and that we may not be prevented from attending for any reason.

FOIA Compliance at Board Meetings

The Citadel's Board of Visitors (BOV) has violated the S.C. Freedom of Information Act (FOIA). The Board has not always included a FOIA compliance statement in the meeting minutes and the Board met with a quorum present without notification to the public. In addition, we found that, although the BOV confirmed that it follows Robert's Rules of Order, it has not done so in all meetings. For example, there were meetings where there was no motion to close executive session, instances where seconded motions were not stated, and the records of votes were not recorded, as required.

The Citadel's BOV is a public body; therefore, it must adhere to FOIA. S.C. Code §30-4-80 states:

All public bodies...must give written public notice of their regular meetings at the beginning of each calendar year...all public bodies must post on such bulletin board or website, if any, public notice for any called, special, or rescheduled meetings. Such notice must include the agenda, date, time, and place of the meeting, and must be posted as early as is practicable but not later than 24-hours before the meeting.

Meeting at Private Club

Members of the Citadel BOV met at The Carolina Yacht Club, a private membership-only club, on Friday, June 9, 2017, from 6:00–9:00 pm. This event was not open to the public, and a quorum of the Board attended the event; therefore, this is considered a meeting of the BOV. It was not announced nor was the public allowed to attend, which violates FOIA.

Robert's Rules of Order

The Citadel has not always followed Robert's Rules of Order, which are used by public bodies conducting board meetings to ensure consistency. Robert's Rules of Order states that a "seconded motion" is normally called for after a motion is made in order for the matter to be considered. A majority vote is required for the motion to pass. However, on numerous occasions, the meeting minutes showed where votes were taken, but initial motions were not seconded and the names of the board members who seconded the motions were not noted in the minutes.

During the two-day April 2017 BOV meeting, LAC auditors witnessed that votes to open and close executive session were not taken on the first day; however, votes to open and close executive session on the second day were taken. According to Robert's Rules of Order, a motion is required to go into executive session and a majority must approve it, and FOIA requires votes to exit executive session.

College Regulations

The Citadel has not complied with the College Regulations and has been inconsistent in how votes are recorded in the minutes. In June 2014, the College Regulations were revised to require that the Board minutes include the result of all votes and reflect how each member voted. There were at least five instances since 2014 where the minutes did not reflect how each member voted, as the names of the Board members were not indicated in the minutes.

Special Meetings

The Citadel BOV normally holds monthly Board meetings, but has the ability to hold special meetings when necessary. The Citadel staff refers to these special meetings as "emergency meetings," but according to FOIA, special meetings require 24-hour notice in advance of the meeting, while emergency meetings do not. According to a Citadel official, The Citadel College Regulations refer to these meetings as "special meetings...which may be called at any time deemed advisable by the chair." According to state law, special meetings require a 24-hour notice, therefore, they cannot be called spontaneously. Since some meetings reviewed were held prior to the audit, we were unable to determine if meeting agendas were posted in a timely manner.

Recommendations

8. The Citadel should, where there is a quorum of the Board of Visitors, announce the meeting and hold it in a location accessible by the public.
9. The Citadel Board of Visitors should ensure that if a vote is taken, a motion and a second must be made, and noted in the minutes.
10. The Citadel Board of Visitors should comply with the College Regulations by including, in the meeting minutes, how each member voted.
11. The Citadel should comply with the S.C. Freedom of Information Act (FOIA) by including a FOIA compliance statement in the meeting minutes.
12. The Citadel should discontinue holding emergency Board of Visitors' meetings if the subject matter for the meeting is not a true emergency.
13. The Citadel should post a 24-hour public notice for all special Board of Visitors' meetings, as required by state law.

Cadet Discipline

Cadet Discipline Process

We reviewed the disciplinary process for members of the Corps of Cadets. In this chapter, we discuss the following issues:

SIMPLIFICATION OF RULES AND REGULATIONS

The Citadel has not addressed the length and complexity of the rules and regulations governing the Corps of Cadets, an issue that was identified as problematic in 2012.

HEARING OF SAME OFFENSES IN DIFFERENT VENUES

We found that cases involving the same disciplinary offense were sometimes heard in different venues, a practice for which we could not identify any rationale.

BOARD OF VISITORS INVOLVEMENT IN APPEALS

The Board should not be involved in disciplinary appeals. We found that:

- No other governing board of a public university or four-year college in South Carolina hears appeals of student conduct or disciplinary matters, and the governing boards of the five other senior military colleges in the country do not hear cadet disciplinary appeals.
- Members of the Board have felt that legislators have attempted to exert undue influence on the appeals process.
- The Board has amended the College Regulations numerous times to alter its involvement in the cadet discipline process, sometimes seemingly in reaction to particular situations.
- Appeals to the Board rarely result in modified punishments.

APPEAL PROCESSES

The disciplinary appeal processes are cumbersome and some are possibly unnecessary since the President makes the final decision regardless of the recommendations of appeal panels and boards.

Background

In order to assess the college's disciplinary processes, we reviewed policies and procedures at other military colleges. Federal statutes designate six "senior military colleges" in the country — The Citadel, Virginia Military Institute (VMI), Virginia Tech, Texas A&M, North Georgia University, and Norwich University. VMI is often cited by Citadel officials as its most similar peer. We determined that the cadet disciplinary processes at VMI are not comparable to those at The Citadel due to the level of autonomy and self-governance granted to VMI's Corps of Cadets. We also found that the federal service academies were not comparable, as they are operated by the federal government, and their students are subject to the U.S. Uniform Code of Military Justice, with the exception of the U.S. Merchant Marine Academy.

In order to assess the college's compliance with its existing disciplinary procedures, we reviewed cadet disciplinary files and records involving Class I (serious) offenses. We requested a list of all Class I hearings and Commandant's boards for the last five academic years, 2012–2017. From this list, we selected a judgmental sample of cases to review. We also requested records for any cases that were appealed to the Commandant, President, or Board of Visitors during the last two years and reviewed specific cases that were brought to our attention as possibly involving procedural violations or exceptions.

Length and Complexity of Discipline Policies and Regulations

The cadet disciplinary process is established in the College Regulations, cadet regulations referred to as the "Blue Book," supplemental regulations in the "White Book," and Citadel Memorandum 2-018.

College Regulations

The College Regulations, approved by the Board of Visitors, govern the operations of the college, including some aspects of cadet discipline. The regulations contain or establish:

- Certain "Class I" offenses that can result in either expulsion (permanent), dismissal (two semesters away), or suspension (one semester away) from the college.
- The college's drug and drug testing policies.
- That formal rules of process, procedure, and/or technical rules of evidence, like those used in criminal or civil court, are not used in disciplinary boards or hearings.

- That a hearing officer's or board's determination shall be made on the basis of *whether it is more likely than not* that an accused cadet violated the disciplinary code.

The Blue Book

With the approval of the President, the Commandant prescribes specific rules, regulations, and policies for members of the Corps of Cadets. These are published in the cadet regulations referred to as the Blue Book. The Blue Book outlines each offense and the maximum penalty for each violation.

The White Book

The organization, functions, and standard operating procedures for the Corps of Cadets are published in a document called the White Book. This document includes some specific policies regarding disciplinary hearing processes and examples of the relevant forms. The White Book also details the ranks and responsibilities of the Corps, uniform standards, room standards, and many other aspects of cadet life.

In 2012, the college formed the Institutional Program Assessment Committee (IPAC) to review policies and practices at the college. IPAC's panel on cadet discipline concluded that the college's written rules for cadets were "too long and complex to serve as an optimally effective code of conduct."

At the time, the college's combined total of 377 pages of written rules and regulations was 179% longer than VMI's, and 300% longer than those at the U.S. Military Academy at West Point. The panel recommended reducing the rules and regulations to a single publication no longer than 125 pages.

At the time of our review, the Blue Book and White Book together totaled 393 pages — 16 more pages than when the panel raised the issue in 2012.

Recommendation

14. The Citadel should simplify and condense the rules governing the Corps of Cadets into one document of significantly shorter length.

Adjudication Venues for Class I Offenses

In our review of disciplinary cases, we found that cases involving the same disciplinary offense were sometimes heard in different venues, a practice for which we could not identify any rationale.

The Blue Book outlines each offense and the maximum penalty that may result if a cadet is found in violation of the College Regulations or the Blue Book. Serious offenses, classified as Class I, can result in suspension, dismissal, or expulsion. The cadet regulations specify that these violations will be heard by either a hearing officer *or* a board. A hearing in front of a single officer is referred to as a Class I hearing, while a Commandant's board is comprised of three members.

Class I Hearing

A Class I hearing is conducted by the Assistant Commandant for Discipline or a designated representative from the Commandant's office. The accused cadet, witnesses, members of the chain of command, and any others who may be able to provide information helpful to the process are allowed to be present. The accused cadet is authorized to have up to two cadets assist him/her during the hearing, and may have witnesses appear on his/her behalf, cross-examine witnesses, hear his/her accusers, and present extenuating or mitigating circumstances. After hearing and considering all of the evidence, the hearing officer will make one of the following decisions — impose a punishment, recommend a punishment to the Commandant, or dismiss the charges.

Commandant's Board

A Commandant's board is a more formal type of proceeding used to determine or recommend what action, if any, may be taken against the cadet. The accused cadet, witnesses, members of the chain of command, and any others who may be able to provide information helpful to the board are allowed to be present. Commandant's boards are normally composed of a battalion teach-advise-coach (TAC) officer or an Assistant Commandant as president, one other officer from the Commandant's department, a cadet captain or above not from the accused cadet's battalion, and a non-voting recorder. The board members determine whether it is more likely than not that the cadet committed the violation(s) and make recommendations for punishment, if appropriate.

Table 3.1 shows the numbers of each type of board or hearing that were held in each of the last five academic years. Table 3.2 shows that the same offenses were sometimes heard in different venues during the last five academic years.

Table 3.1: Disciplinary Boards and Hearings, by Academic Year, 2012–2017

VENUE	ACADEMIC YEAR				
	12-13	13-14	14-15	15-16	16-17
Class I Hearing	21	33	40	21	14
Commandant's Board	29	32	31	17	16

Source: Citadel Commandant's Office

Table 3.2: Adjudication Venues for Certain Class I Offenses 2012–2017

VENUE	HAZING	MARIJUANA	SEXUAL HARASSMENT/ MISCONDUCT	ALCOHOL	CONDUCT UNBECOMING
Class I Hearing	40	0	4	8	23
Commandant's Board	36	25	3	1	19

These figures do not include hearings or boards for cases involving multiple cadets during the same proceeding.

Source: LAC Analysis of Data Provided by Citadel Commandant's Office

Venue Issue Raised in Disciplinary Appeals

The issue of having two venues in which a case can be adjudicated has been raised in a cadet disciplinary appeal. In that case, the lack of the cadet's opportunity to have the case heard before a Commandant's board instead of a Class I hearing was the first cited example of alleged due process violations in the appeal.

Recommendations

15. The Citadel should amend the College Regulations to state that any case involving the potential for expulsion will be heard by a Commandant's board.
16. The Citadel should revise the Blue Book to specify the offenses that will be heard in a Class I hearing and those that will be heard by a Commandant's board.

Appeals to the Board of Visitors

In our review of the Board of Visitors' (BOV) involvement in cadet disciplinary appeals, we found that:

- The BOV has amended the College Regulations numerous times to alter its involvement in the cadet discipline process, sometimes seemingly as a reaction to particular situations. Currently, the Board only hears appeals of expulsions.
- The Citadel is the only public university or four-year college in the state where students may appeal disciplinary or student conduct decisions to the governing board of the institution.
- Members of the General Assembly have attempted to exert undue influence on the disciplinary appeals process.
- Only three appeals heard by the BOV since the Fall of 2009 have resulted in modified punishments.

The 2012 Citadel Institutional Program Assessment Committee (IPAC) report stated: "the consensus of those persons who spoke with members of our committee is that it is best for the BOV not to be involved in disciplinary matters."

Current Process for Appealing Expulsions to the Board of Visitors

The BOV has amended the College Regulations numerous times over the last ten years, with most changes occurring between March 2010 and February 2013, changing its role and authority in the appeals process. The BOV currently hears appeals only for disciplinary expulsions.

From at least June 2011 to June 2014, the standing Customs and Regulations Committee of the BOV heard appeals to determine if they would be forwarded to the full Board or be denied. They are now heard by a "special appeals committee" that is appointed by the BOV chairman for each particular appeal.

According to the College Regulations, the only valid grounds for appeals are: (1) the hearing officer or Commandant's board failed to provide due process, or (2) significant information has been discovered which would have probably changed the result of the hearing or Commandant's board.

The committee reviews the appeal without appearance of parties or argument and determines whether or not the appeal is meritorious. If the committee determines that the appeal does not have merit, it will be dismissed with finality. If the committee determines that the appeal has merit, it identifies the issues to be considered and forwards them to the full Board.

If an appeal is forwarded to the full Board, the Board has three options with the appeal — uphold, deny, or remand to the President for reconsideration. Historical changes to the Board’s involvement in disciplinary appeals are detailed in Table 3.3.

Table 3.3: Changes to College Regulations Regarding BOV Involvement in Disciplinary Appeals, June 2009–August 2011

DATE	BOV ROLE IN APPEALS
June 2009	Hears appeals for expulsions, dismissals, and suspensions.
March 2010	Does not hear any appeals.
June 2011	Hears appeals for expulsions, dismissals, and suspensions.
August 2011	Hears appeals only for expulsions.

Source: Citadel College Regulations

At the April 28, 2012 meeting of the BOV, members discussed concerns about legal issues, conflict of interest, risk assessment, Southern Association of Colleges and Schools (SACS) accreditation, political influence on the Board, and liability coverage for BOV members, relative to Board involvement in disciplinary appeals.

In our review of appeals to the BOV from Fall 2009 to Spring 2017, we identified only three appeals that resulted in modified punishment. The outcomes of cases appealed to the Board of Visitors appear in Table 3.4.

Table 3.4: Outcomes of Disciplinary Appeals to the Board of Visitors, Fall 2009–Spring 2017

APPEAL	OUTCOME	NUMBER OF CASES
Denied by Customs and Regulations Committee or Special Appeals Committee	Not Forwarded to Full BOV	16
Heard by Board of Visitors	Punishment Upheld	2
	Remanded to President Punishment not Modified	3
	Remanded to President Punishment Modified	2
	Appeal Upheld Punishment Modified	1
	Appeal Upheld Cadet Returned to Regular Status	0

The Board of Visitors did not hear any disciplinary appeals from March 2010 – June 2011.

Source: Citadel Commandant's Office

Undue Legislative Influence on the Board of Visitors

On May 17, 2011, three state Senators sent a letter to seven state House members who comprised the “Citadel Caucus” asking for their support in sending a letter to BOV members encouraging them to change the disciplinary policy to allow for the BOV to be the final level of appeal. They cited a “need for civilian input in the disciplinary process” and attached a letter from the parents of a cadet who resigned in lieu of facing expulsion after testing positive for marijuana.

On June 1, 2011, a letter was sent to the BOV chairman from a state Senator and a House member. The letter stated “we... feel that the Board of Visitors must have the ultimate say in disciplinary proceedings.” The letter also requested a “thorough discussion on the issue and an up-or-down recorded vote on this issue in the near future at a regularly scheduled board meeting.”

Ten days later, the BOV held a regularly-scheduled meeting. Following discussion, a motion amending the College Regulations so that the BOV would hear appeals of suspensions, dismissals, and expulsions passed by a seven to four vote. This indicates that there was no clear consensus about the Board's involvement in appeals.

We were provided with BOV member correspondence that was exchanged after this meeting. One of the members said that the letters from the legislators were “intrusive,” indicative of “micromanagement,” and perceived to include “a threat of reprisal.”

Recommendation

17. The Citadel Board of Visitors should not hear appeals of any disciplinary suspensions, dismissals, or expulsions, and the Disciplinary Board of Review should be designated as the final appellate authority.
-

Appeals of Suspensions and Dismissals

The disciplinary appeals processes are cumbersome and some are possibly unnecessary since the President makes the final decision, regardless of the recommendations of appeal panels and boards.

The President is the appellate authority for all disciplinary offenses for which the punishment imposed is suspension or dismissal. Citadel Memorandum 2-018 details the process for handling these appeals, and establishes the following two entities:

REVIEW COMMITTEE

A committee composed of the Provost, the Vice President for Finance, and the Senior Vice President for Operations and Administration.

It reviews all documents related to a cadet appeal and makes recommendations to the President.

After the President receives a cadet’s appeal and the Commandant’s office has an opportunity to respond, the President *may refer the appeal* to the review committee. The review committee reviews the appeal materials and makes one of these recommendations to the President:

- 1) Grant the appeal;
- 2) Remand the matter to the Commandant for reconsideration;
- 3) Modify the finding or punishment imposed;
- 4) Reject the appeal; or
- 5) Forward the appeal to a Disciplinary Board of Review for further review.

DISCIPLINARY BOARD OF REVIEW (DBOR)

A five-member board comprised of a chair who is a vice president, dean, or associate provost; a battalion or company TAC officer; a representative of the faculty or staff; a non-voting recorder; and a non-voting, rank-holding cadet. The DBOR is charged with making a recommendation to the President on a cadet appeal if the review committee believes it has merit.

If the President forwards the appeal to a DBOR, it reviews the materials pursuant to the DBOR standard operating procedures. The DBOR makes one of the following recommendations to the President:

- 1) Grant the appeal;
- 2) Remand to the Commandant for reconsideration;
- 3) Modify the finding or punishment imposed; or
- 4) Reject the appeal.

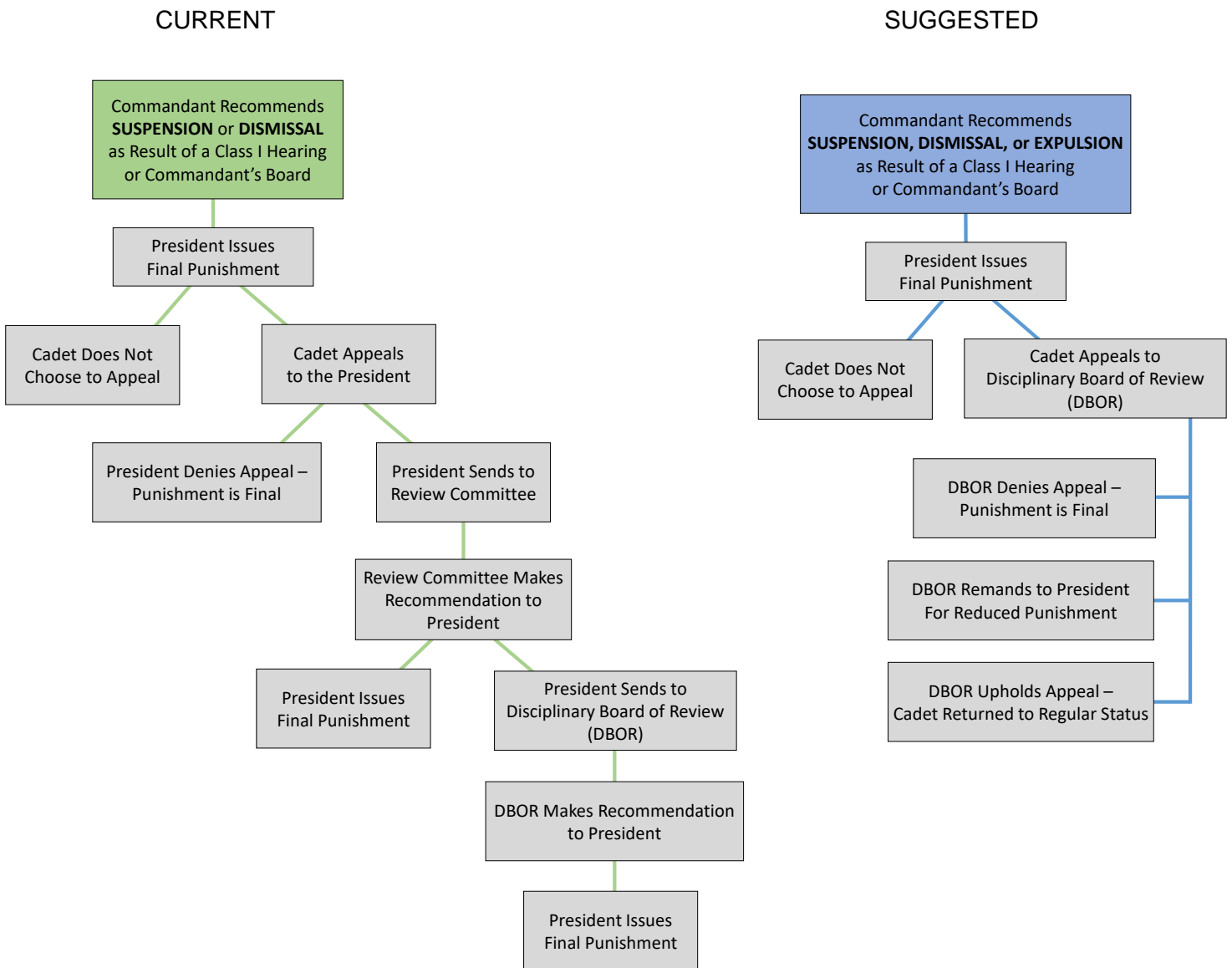
The policy states that the President is not bound by the recommendations of either the Review Committee or the DBOR and that the decision of the President shall be final.

Streamlined Appeals Process for Suspensions, Dismissals, and Expulsions

The appeals process can be simplified by consolidating the various steps involved into one streamlined process. A five-member DBOR, comprised of representatives of the college administration, the Commandant's office, the faculty, and the Corps of Cadets, would ensure a fair, independent review of appeals cases.

The DBOR should be designated as the final appellate authority for all disciplinary appeals, and the President should be bound by its decisions. The current non-expulsion appeals process and a suggestion for a streamlined process for all appeals appear in Chart 3.5.

Chart 3.5: Current and Suggested Appeals Processes



Source: The Citadel and LAC

Recommendations

18. The Citadel should consider reconstituting the Disciplinary Board of Review to consist of five voting members — a vice president of the college, the Provost or an associate provost, a battalion or company TAC officer, a rank-holding cadet, and a member of the faculty, or a like composition.
19. The Citadel should streamline the disciplinary appeals process by establishing the Disciplinary Board of Review as the final appellate authority for all cases of suspension, dismissal, or expulsion.
20. The Citadel should establish that the Disciplinary Board of Review has three options with an appeal — deny the appeal, uphold the appeal and restore the cadet to regular status, or remand the case to the President for a reduced punishment.

Other Disciplinary Issues

During our review of the cadet disciplinary process, we identified three other issues that need to be addressed. They are detailed below.

Cadet and Student Visitation to Faculty and Staff Residences on Campus

The Citadel has faculty and staff residences on campus to allow faculty and staff to mentor cadets outside of the classroom. Cadets and other students sometimes visit these on-campus homes of their instructors or mentors to socialize.

On occasion, members of the Corps of Cadets, who are of legal age, will consume alcoholic beverages and use tobacco products while being hosted by faculty and staff at their campus residences. These activities currently violate the Blue Book and the College Regulations. While the college's campus-wide tobacco policy provides an exception for "campus housing occupants" smoking on back porches and in backyards, the Blue Book explicitly states that "cadets may not possess tobacco, smoke, use e-cigarettes or smokeless tobacco on campus." The College Regulations and the Blue Book also state that, unless authorized by the President, cadets will not consume, possess, or traffic alcoholic beverages on campus. The campus, as defined in the College Regulations and the Blue Book, includes the faculty and staff residential areas.

In order to prevent unintentional policy violations and/or the possible perception of preferential treatment by involved staff in administrative hearings, classes, or processes, the college should ensure that its policies reflect the administration's stance on the activities of cadets being hosted at faculty and staff residences on campus.

Penalties for Consensual Sexual Activity on Campus

The College Regulations, adopted by the Board of Visitors, stipulate that certain offenses may result in either expulsion, dismissal, or suspension. Expellable offenses include the commission of felonies, hazing, sexual harassment, sexual assault, and [consensual] sexual activity on campus. Dismissal is the strongest penalty for manufacturing alcoholic beverages on campus, "persistent significant misconduct," and discharging a firearm on campus.

We found no justification for treating consensual sexual activity as a violation as egregious as hazing and sexual assault. While the activity can certainly be prohibited, the punishment should be suspension or dismissal, at most. Further, the Commandant's office should have the latitude to determine appropriate punishment through its Class I hearing and Commandant's board processes.

Inconsistencies in Application of Discipline

The LAC survey of Citadel faculty and staff indicated that there are perceived inconsistencies among the disciplinary actions of the TAC officers in each company and battalion. Comments suggested that additional training is needed to ensure that TAC officers are more consistent in their interpretation of policies and the application of discipline across the 5 cadet battalions and 21 cadet companies.

The LAC survey of Citadel faculty and staff also revealed that a number of people on campus perceive that there is favoritism towards individuals such as athletes and legacies and there is a need for more transparency and consistency in disciplinary actions.

Recommendations

21. The Citadel should implement a policy directing that any faculty or staff member must recuse himself or herself from a formal disciplinary or academic hearing or proceeding involving a cadet or student who has been hosted at his or her residence, except in the case of official, college-approved events.
22. The Citadel should amend its policies, or implement new policies, to address the consumption of alcoholic beverages and use of tobacco products by members of the Corps of Cadets, of legal age, at faculty and staff residences on campus, as it deems appropriate.
23. The Citadel Board of Visitors should reconsider whether expulsion is the appropriate punishment for consensual sexual activity on campus.
24. The Citadel should ensure that training offered to TAC officers adequately addresses the importance of consistency in the application of discipline across all of the cadet companies and battalions.

Human Resources

President's Compensation Package

The audit requestors asked us to review the President's compensation package and indicated that he had established his own rate of pay, including supplements from The Citadel Foundation. The President's total compensation package for FY 16-17 was \$818,476. Table 4.1 shows the President's total compensation package for FY 12-13 through FY 16-17.

Table 4.1: President's Compensation Package, FY 12-13 – FY 16-17

FY 12-13	FY 13-14	FY 14-15	FY 15-16	FY 16-17
\$574,801	\$576,658	\$707,571	\$813,074	\$818,476

Source: The Citadel

Table 4.2 is a breakdown of the President's state salary, the supplemental amount that The Citadel Foundation and The Citadel Trust pay toward the President's compensation package, and the total, by fiscal year.

The Foundation increased its supplement significantly in FY 15-16. In FY 16-17, the Citadel Foundation paid \$261,343 (32%) of the President's total compensation package, including the Foundation's supplement, the annual discretionary fund, and half of the executive deferred compensation. The Citadel Trust paid the other half of the executive deferred compensation total.

Table 4.2: Breakdown of President's Compensation Package, FY 12-13 – FY 16-17

	FY 12-13	FY 13-14	FY 14-15	FY 15-16	FY 16-17
President's State-Appropriated Salary	\$147,127	\$151,200	\$154,709	\$182,287	\$195,031
The Citadel Foundation Supplement	\$50,000	\$50,000	\$50,000	\$101,357	\$97,760
The Citadel Trust Supplement	\$135,000	\$135,000	\$135,000	\$101,357	\$97,760
Other Categories	\$242,674	\$240,458	\$367,862	\$428,073	\$427,925
TOTAL	\$574,801	\$576,658	\$707,571	\$813,074	\$818,476

Source: The Citadel

Benefits under the “Other Categories” included payments such as executive deferred compensation employer contributions (\$267,165), annual discretionary fund (\$30,000), golf membership (\$7,958), and employer fringes (\$52,000).

Dual Employment

We reviewed the college’s use of dual employment to determine if the proper forms were maintained for each employee, if prior approval was obtained, and if the amount reported for each fiscal year was accurate. In our judgmental sample, we found:

- The Citadel did not accurately report to the Comptroller General’s office the amount of dual employment compensation for the fiscal years reviewed, FY 12-13 through FY 15-16.
 - Eighty-five percent of the dual employment compensation forms reviewed had not been approved prior to the services being rendered, which is not in compliance with state law.
 - The Citadel HR staff was not able to readily identify dual employment arrangements because dual employment records are not maintained separately from other employee records.
-

What Is Dual Employment?

Dual employment occurs when an employee in a full-time position accepts additional temporary, part-time employment within the same state agency or with another state agency. In order for dual employment to be within the same agency, the services must constitute additional job duties independent of the employee’s primary duties within the agency.

Noncompliance with State Laws and Regulations

S.C. Human Resources Regulation 19-713 states the agency head is responsible for approving dual employment requests prior to the beginning of the dual employment. However, 85% of the dual employment compensation forms reviewed had not been approved prior to the services being rendered, which is not in compliance with state laws and regulations. This caused dual employment arrangements to occur which were not given financial consideration and may not have been approved. By allowing dual employment to occur before approval, the college is not able to determine if it is an unnecessary expense. Table 4.3 shows the number of recipients and the amounts reported for dual employment, both internally and with other state agencies, by the college during the period reviewed.

Table 4.3: Dual Employment Payments and Recipients, FY 11-12 to FY 15-16

FISCAL YEAR	RECIPIENTS	TOTALS
FY 11-12	158	\$249,038
FY 12-13	170	\$817,758
FY 13-14	138	\$585,574
FY 14-15	139	\$484,801
FY 15-16	143	\$313,826

Source: Comptroller General

Dual Employment Not Accurately Reported

Although the dual employment forms were maintained in the employees' files, when we requested the forms, they were not readily identifiable. It required searching through multiple electronic documents in order to locate the dual employment forms. The Citadel HR staff does not maintain a separate list of dual employment assignments.

As shown in Table 4.4, The Citadel did not accurately report to the Comptroller General's office the amount of dual employment compensation paid for the fiscal years reviewed, FY 12-13 through FY 15-16.

Table 4.4: Dual Employment Payments in Sample, FY 12-13 to FY 15-16

FISCAL YEAR	EMPLOYEE IDENTIFIER	AMOUNT		
		REPORTED	OVER-REPORTED	UNDER-REPORTED
FY 12-13	A	\$28,619	\$6,000	-
FY 13-14	A	\$31,265	\$6,000	-
FY 14-15	B	\$18,721	-	\$17,143
FY 15-16	B	\$15,600	-	\$13,896
FY 15-16	C	\$833	-	\$90

Source: Comptroller General and LAC Analysis

By over- or under-reporting dual compensation amounts, the college does not have accurate figures and is not achieving transparency with its records' reporting. Additionally, it may be possible to reduce costs by accurately monitoring dual employment costs and ensuring the necessity of each arrangement. The Citadel should also ensure that the dual employment service is actually outside the employee's primary job duty. For dual employment within the same state agency, a separate form for each dual employment arrangement should be maintained. When an academic employee is working outside the normal base period of employment, it is considered summer employment and not dual employment.

The Citadel conducted an internal audit of dual employment compensation for FY 14-15. This audit found that failure to establish effective internal controls resulted in significant overpayment to a number of employees. Recommendations were made to strengthen internal controls and to update the pay plan policy. The Citadel HR staff stated that the revised pay plan policy was not approved and implemented until June 2017, five months past the planned target date of January 2017.

Variations in Dual Employment

There was a substantial increase in dual employment payments reported by the college between FY 11-12 and FY 12-13, from \$249,038 to \$817,758; however, the number of recipients did not change as significantly, increasing from 158 to 170. The Comptroller General's office had inquired about the variations after the college supplied the data. A college official stated that this was caused by an increase in faculty overloads and additional course offerings. Current faculty had been utilized instead of hiring additional adjunct or full-time faculty.

Use of Incorrect Forms

During our review of dual employment, we found that forms had been utilized for dual employment that were intended for additional pay or compensation; some forms had "dual employment" handwritten at the top. The use of incorrect forms makes it difficult to determine if the arrangement was for dual employment or additional pay.

Citadel HR staff stated that employees had been confused about which form to use. The revised pay plan policy addresses this issue by utilizing a form for internal dual employment (within the college) and a separate form for external dual employment (with a different state agency). There are other forms to request additional pay for a salary increase/decrease, temporary salary increase, summer compensation, and bonus/award which should help to specify the purpose of the compensation and to clarify which forms employees should submit.

Recommendations

25. The Citadel should accurately report dual employment compensation to enhance transparency.
26. The Citadel should ensure dual employment arrangements are approved prior to the start of the service as required by S.C. Human Resources Regulation 19-713.
27. The Citadel should ensure the proper form is submitted, in its entirety, for dual employment requests.
28. The Citadel should maintain a list of dual employment assignments separately from other employee files to readily document the existence of such arrangements.

Job Titles and Classifications

Some employees' positions at the college are misclassified. There are employees who are listed as instructors whose primary job duties do not involve teaching students. Some of these employees work dual employment and have "double-dipped" their annual and sick leave, being paid for both their primary and secondary positions. Also, the college does not track when employees make up time missed from their primary positions. We found that dual employment forms were also missing critical information. Further, at least two employees did not meet the educational requirements for their positions.

Misclassification of Employees

We reviewed a judgmental sample of nine employees classified as "Instructor" and "Instructor-Faculty." We found discrepancies in how some of these employees are classified:

- Three employees had errors in their employee files — their job titles and position descriptions were misclassified. For example, they were listed as *classified* employees tied to pay bands, but according to the college's HR officials, these employees should be *unclassified* instructors.
- One employee was classified as a "laundry worker," but was actually an "Instructor-Faculty" member in the political science department. The error was not removed from the employee's file.

- Another employee was classified as “Research Associate” but holds the position of Director of Government and Community Affairs.
- One employee was classified as “Instructor” but is actually the college’s General Counsel. According to the State Division of Human Resources, higher education attorneys should be classified as “UP11-Unclassified Higher Ed. Attorney.”

Employees Paid Twice

Three of the nine employees reviewed have “double-dipped” and taken paid annual and/or sick leave during their primary and secondary work hours. These employees are listed as instructors and working dual employment; however, their primary positions are TAC (teach-advise-coach) officers and the college’s General Counsel. Leave request documentation shows that leave was taken during the time they would be instructing a class.

A Citadel official confirmed that there is no college-wide policy regarding missed classes for instructors, but instructors are paid even if they are not present to teach the class because they are required to provide the content to meet the learning outcomes and any assignments whether it is face-to-face or not. Instructors still have to meet the credit hour definition either through substitute faculty, online assignments, or a guest lecturer. We requested evidence of when an instructor used a different method to provide class content, but the college did not provide any documentation.

If an employee is teaching during the day and the class overlaps with his or her primary position, the employee is expected to make up the time missed from the primary position after hours. However, no records are kept of time made up by these employees. Therefore, it is difficult to determine if the employees actually make up the time.

We found that one TAC officer was paid \$1,200 (\$38 per class) for a course and missed two classes. The General Counsel was paid \$1,200 (\$40 per class) for a course and missed one class. While these amounts, individually, may not be significant, since the college does not track the number of classes missed, it cannot measure the total cost.

In our sample, there were five dual employment forms that were incomplete — four where the dates/times of the dual employment were not mentioned and one without proper authorization. We contacted the Registrar’s Office and found that the class days and times were not always listed on the course schedules.

Employees Lacking Qualifications

Two of the employees in the sample, whose positions required a Master's degree, did not have one. The Citadel's tuition waiver program can be substituted for the degree if completed within three years of the employee's start date; however, the college does not track employees' completion of degrees. Also, the college does not require written documentation to show whether employees who served in the military submit any military paperwork to show they are eligible to hold their positions. It is unclear if discharge papers are required to prove minimum qualifications in the hiring process, but college officials stated those papers are not retained because of legal concerns around hiring discrimination.

Recommendations

29. The Citadel should ensure that all employees' position descriptions are up-to-date and maintained in the employees' files.
30. The Citadel should assign job titles that accurately reflect job duties for all employees.
31. The Citadel should implement a policy where instructors provide written documentation to the human resources' department to ensure the date and time of when a substitute, guest lecturer, or an online assignment was used for a missed class.
32. The Citadel should ensure that all employees hired meet the minimum qualifications for their positions.

Hiring Process for Faculty and Staff

We reviewed the college's hiring practices and qualifications for staff and faculty to determine compliance with state laws and regulations. We reviewed a judgmental sample of 20 employees and found:

- One employee was hired after being interviewed by only one person and was later given a newly-created, executive position with a substantial pay increase. The President had formerly been the supervisor of this employee while serving at the U.S. Air Force Academy.
- One employee worked for The Citadel Brigadier Foundation, Inc., a separate charitable entity, but was considered a state employee.

- Three employees did not meet the minimum qualifications for their positions based on the requirements in the position descriptions.
- We were unable to determine if three unclassified employees were qualified for their positions as there were no position descriptions.

Noncompliance with State Laws and Regulations

As a state higher education agency, the college is subject to state Human Resources Regulations 19-700 through 19-720. An agency official stated that the college follows state laws when hiring faculty and staff. However, we found that some internal policies do not specifically cite the applicable state law.

We reviewed human resources' files for 20 employees to determine compliance with state laws and regulations. Our sample included executive office positions and individuals from the different employee classifications, i.e. staff exempt, staff non-exempt, unclassified, etc. If an employee in the sample held more than one position at the college, each position was reviewed. We found the following exceptions.

Employee Supervised by the President Before Coming to The Citadel

The Citadel normally establishes a selection committee for hiring new employees; however, we found one employee was hired after being interviewed by only one person, the former Director of Staff. We found the President had supervised this employee while they both served at the U.S. Air Force Academy. This employee was promoted to an executive position with a substantial pay increase; however, the job posting was not in the HR file. The college provided a copy of the posting during our exit process. When the employee was promoted a second time with another substantial pay increase to a position that the President asked to be created, the position was not posted.

The responses to the LAC survey of faculty and staff indicated dissatisfaction that this job opening was not posted or announced. According to the State Division of Human Resources, higher education institutions may establish unclassified positions without its involvement and those positions do not have to be posted. However, when notice of job vacancies is not given, the hiring process may not be equitable and may be perceived as unfair hiring/promotion practices.

Minimum Qualifications Not Met

State Human Resources Regulation 19-703.02 states that the minimum training and experience requirements established by the agency for the vacant position must meet or exceed state HR's requirements. The regulations state that the minimum requirements are directly related to the successful performance of essential job functions. We found that three employees in our sample did not meet the minimum qualifications for their positions based on the requirements in the position descriptions. These employees include the Provost, a Fiscal Technician II, and an Instructor/TAC Officer.

PROVOST (UNCLASSIFIED)

The position description stated that the candidate must have a Ph.D. or other terminal degree from a discipline currently offered at the college. The chosen candidate held a Ph.D. in mass communications, which was not offered at the college at the time of hiring, nor is it currently offered. The Provost was hired in July 2015 and remains employed at the college.

FISCAL TECHNICIAN II (CLASSIFIED)

The position description stated previous event planning experience was required; however, the chosen candidate lacked such experience. This was also the employee who worked for The Citadel Brigadier Foundation.

INSTRUCTOR/TAC OFFICER (UNCLASSIFIED)

This position required a Master's degree, which the chosen candidate did not have. The Citadel HR office stated TAC officers may be given three years to obtain a Master's degree after being hired; however, the college does not require the newly-hired employee to sign an agreement committing to, nor does the college adequately track the progress towards, obtaining a Master's degree. It is the responsibility of the Commandment's department to track their progress. We were informed this employee enrolled in graduate courses in Spring 2017; however, the employee was hired in July 2014 and will not have obtained a Master's degree within the three-year timeframe.

For these three employees, the human resources' files did not have written explanations or justifications clarifying why these candidates were hired without meeting the requirements of the position descriptions. State Human Resources Regulation 19-703.01 for classified positions states that applicants for hiring must meet the minimum requirements unless equivalency approval has been given by state HR. The Citadel should apply the same consideration of minimum requirements to unclassified positions.

State Employee Working for Separate Entity

We found one employee worked for The Citadel Brigadier Foundation, Inc., a separate charitable entity, but was considered a state employee. Although the Brigadier Foundation reimburses the costs to the college on a monthly basis, the employee receives state benefits while working for a separate entity. The propriety of a state employee working for a separate charitable entity is not clearly addressed in state law.

Possible Preferential Treatment

In our sample, we found that three employees had possible connections to the President of the college and nine employees had former military service which could have been influential during the hiring process. The results of our survey of faculty and staff indicated there are prevailing thoughts of favoritism, cronyism, and nepotism involved in the hiring process, along with a preference shown towards military service or rank, especially the U.S. Air Force.

While we agree that hiring veterans is admirable, the college should consider that people who have not served in the military may also be interested in and qualified for positions at the college.

Unable to Review Documentation

We were unable to review position descriptions for three employees in unclassified positions to determine if they met the qualifications for their positions because they did not have position descriptions. Although position descriptions are not required for unclassified positions, we found that position descriptions had been written for a few employees in unclassified positions.

We were unable to view position descriptions which had been posted for the former classified positions held by two employees because these records had not been maintained by the college. An agency official stated the position descriptions, which had been used when the job was originally posted, could be found on the S.C. Division of State Human Resources' website. Therefore, we used the position descriptions from the state guidelines to determine that the employees' qualifications met the requirements.

Recommendations

33. The Citadel should hire only candidates who meet the criteria as posted in the job announcement to ensure minimum requirements are met.
34. The Citadel should require that hiring decisions for executive-level staff be handled by a selection committee to ensure an equitable hiring process.
35. The Citadel should have position descriptions for all unclassified positions to ensure employees know what is expected of them.
36. The Citadel should consider advertising all job vacancies.

Salary Increases

We reviewed the salary study conducted by the college in 2015 and the subsequent salary increases, which cost the college a total of \$1.3 million over two years, and found:

- Three percent of staff/deans and one faculty member earn more than one and one-half times the market median (midpoint) salaries for their positions.
- Two executive-level staff, 55% of staff/deans, and 57% of faculty earn more than the market median (midpoint) salaries for their positions.

An official with the college's HR office said some employees were excluded from the salary study for the following reasons:

- The President was not included because his state-appropriated salary is governed by the Agency Head Salary Commission.
- The Provost was not included because many provosts receive a supplement from the college's foundation, making it difficult to compare.
- Employees in positions for which data was found to be statistically insignificant, meaning there were less than five comparables in the same market.

Implementation of Salary Increases

The salary increases are being implemented in three phases. Table 4.5 shows the details.

Table 4.5: Phases of Salary Increases

PHASE	RANGE	EFFECTIVE DATE	COST
1	Salaries < \$50,000	2/1/2016	\$565,746
2	Salaries < \$100,000	7/1/2017 (for staff) *	\$513,891
3	Yet to be Determined/Implemented		

*The effective date for faculty was 8/16/17.

Source: The Citadel HR office

HR staff explained that its compensation philosophy — emphasizing internal equity, external competitiveness, longevity, performance, and financial feasibility of the college — was applied to every individual position in coordination with the appropriate vice president. An HR official stated that HR met individually with each vice president to determine if increases would be given. HR staff explained that each salary increase was verified through HR, the budget office, and each respective vice president.

Fringe benefits and employer retirement contributions are additional costs involved with any salary increase. The employer retirement contribution rates were raised by 2% on July 1, 2017. According to state HR, employer retirement contribution rates will increase by 1% each July 1st through 2022.

The total cost for the first two phases of the salary increases was estimated to be \$1.3 million, when calculated with the additional costs of fringe benefits. The salary increases, along with the additional costs of fringe benefits, had a significant impact on the college's finances.

Recommendation

37. The Citadel should review the impact of high executive salaries on its financial status and consider a more equitable salary range.

Revenue and Expenditures

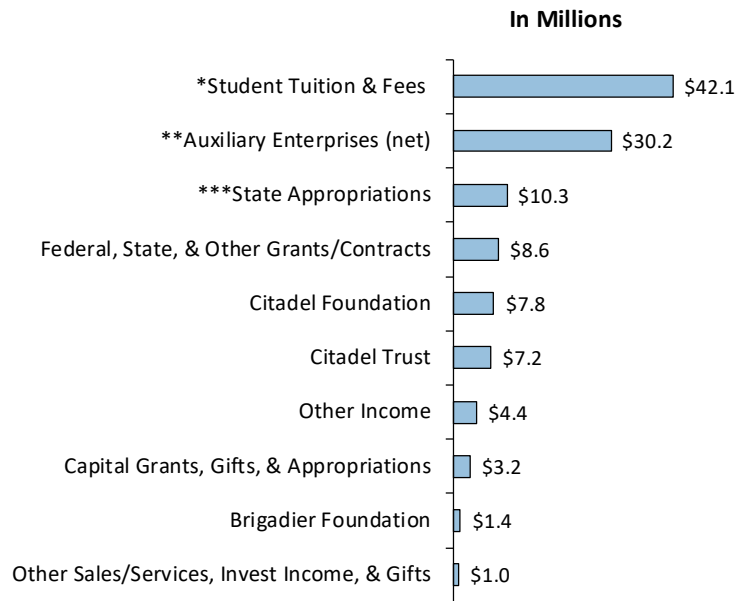
One of our audit objectives was to review the college's management of state appropriations and other funds. Our limited review focused on the college's general fund and some expenditures associated with contracts and permanent improvement projects. We found areas in need of improvement:

- The Citadel Foundation records were closed to us, which hindered our audit.
- The State Executive Budget Office was not notified in a timely manner of an identified deficit.
- A vendor was paid over \$170,000 in FY 11-12, but the college did not provide documentation that the competitive bidding process was followed.
- Invoices were not paid in accordance with due dates, as required by the S.C. Consolidated Procurement Code.
- The Citadel Foundation purchased goods and services circumventing the S.C. Consolidated Procurement Code which the college is required to follow.
- Permanent improvement projects are being funded or completed by related foundations. Funding for a new building, Bastin Hall, may require the use of academic funds, if donations are not sufficient.
- Some memorandums of understanding between the college and foundations do not address the utilization of Citadel staff for foundation activities, resulting in the potential for conflicts of interest.

Citadel Funding

The Citadel receives funds from multiple sources including students, State, Federal, The Citadel Trust, The Citadel Foundation, The Brigadier Foundation, and other sources. Sources of funds for FY 15-16 totaled \$116.2 million and are presented in more detail in Chart 5.1. Expenditures for the same period totaled approximately \$115.5 million.

**Chart 5.1: Sources of Funds,
June 30, 2016**



* Shown net of scholarship allowances of over \$11 million.

** Includes profit-based entities such as the book store and tailor shop.

*** Includes original appropriation, agency additions, and Commission on Higher Education allocations.

Source: Citadel FY 15-16 financial statements and LAC

General Fund Budget to Actual Analysis

The Citadel includes tuition, fees, and state appropriations in its general fund. We reviewed FY 15-16 general fund activity as compared to the respective budget and questioned variances equal to or higher than 40%. The differences are summarized as follows:

- Three increases resulted from the review and reallocation of expenditures at year-end, which is not uncommon.
- One increase in expenditures was the result of a misclassified purchase order. Expenditures were recorded in the correct department; however, they were classified as other contractual services rather than custodial and maintenance services.
- One increase in expenditures was due to an additional consulting engagement for managing academic expenditures and temporary assistance from a former accounting manager.

Financial Staff Turnover

Over the past few years, the finance division has experienced significant turnover in management positions. Since 2016, the controller, accounting manager, budget director, and vice president positions have transitioned or are currently in a state of transition. The Citadel has hired temporary staff when needed to supplement the loss in staff and agency knowledge.

The Citadel indicated that, until recently, turnover in the finance area had been equivalent to the turnover rate of the entire college. The college has not conducted a review to determine what steps may be taken to reduce turnover in this division.

We reviewed several exit interviews of former finance employees and found the following were reasons noted why employees left the college — frustration with executive management of the college, concern with the internal audit and compliance function being within the finance division, employee recommendations were ignored, and a lack of involvement of the finance staff in decisions impacting financial reporting, processes, and procedures.

Recommendation

38. The Citadel should analyze the turnover rate of staff in the finance division to determine steps that may be taken to reduce instability within the division.

Deficit Monitoring

The Citadel did not respond in a timely manner to the State Executive Budget Office's (EBO) deficit monitoring requirements, stipulated by state law. The Citadel did not notify the EBO of a deficit identified in July 2015 until April 2016.

State Law

According to S.C. Code §2-79-20, each state agency, department, and institution is responsible for operating within the limits of the appropriations set forth in the annual general appropriations act, appropriation acts, or joint resolution supplemental, and any other approved expenditures of funds. The responsible entity is required to operate in a manner that does not result in a year-end deficit.

S.C. Code §2-79-30 stipulates that quarterly deficit monitoring be conducted by the EBO. It also provides a 15-day window for the General Assembly to be notified and for the agency to work with the EBO to develop a plan to avoid the deficit. Once the deficit avoidance plan is completed, the EBO will either request that the General Assembly recognize the deficit, if the deficit avoidance plan is not sufficient, or notify the General Assembly that the deficit avoidance plan will be sufficient to avoid the deficit.

Executive Budget Office Quarterly Deficit Monitoring

The Citadel received guidance from the EBO stating: “Agencies are responsible for monitoring General and Other Funds’ expenditures and revenues and making adjustments as necessary so as to avoid an overall agency deficit.” The guidance further requests that the agency provide the following by e-mail on a quarterly basis:

- A brief explanation and copy of the financial management tools utilized along with steps taken to avoid an *overall agency deficit*. This should include, at a minimum, financial statements and documents provided to senior leadership.
- A review of accounts *identifying any area* in which an agency is projecting a deficit with an explanation for the possible shortfall or a statement that the agency is not projecting a deficit.

Deficit Monitoring

While the guidance from the EBO states that the agency is responsible for making adjustments to avoid an overall agency deficit, as required by state law, it also requests that an agency identify any area in which the agency is projecting a deficit.

Citadel management interprets the deficit monitoring requirement to be focused on the overall fund level of approximately \$147 million for FY 16-17, of which the state general fund is approximately \$10 million, rather than individual department or fund levels. Based on this interpretation, the college could project a deficit in its general fund (which includes tuition, fees, and state appropriations), plan to transfer funds from another allowable fund source (such as auxiliary funds), and report to the EBO that the college is not anticipating any year-end deficit without disclosing the actual or potential deficit.

This approach does not fully comply with the EBO's quarterly deficit monitoring requirement that any area in which a deficit is projected or actual be reported. The Citadel reported to its Board of Visitors, senior management, and external auditors that the college's athletics department was not able to cover unfunded Athletic Grant-in-Aid due to operating deficits according to its June 30, 2015 and June 30, 2016 financial statements. The Citadel's FY 15-16 financial statements indicated that the college and its athletic department were working together to cover prior and current year unfunded balances over time. This information was not reported to the EBO until April 2016, nine months after it was identified.

The EBO implemented a more detailed reporting requirement in an effort to avoid future financial issues at higher education institutions. One reason is because the EBO does not have the same ability to review the detailed financial records of higher education institutions like it does for other state agencies that utilize the statewide accounting system. It is important that self-reporting, higher education institutions comply with the EBO's quarterly deficit monitoring requirement.

Recommendation

39. The Citadel should comply with the State Executive Budget Office's quarterly deficit monitoring reporting requirement to identify any area in which an agency is projecting a deficit with an explanation for the possible shortfall.

Contracts

The Citadel has not complied with S.C. Consolidated Procurement Code Title 11, Chapter 35, which governs the expenditures of all funds, regardless of the source, unless specifically exempted. We reviewed 14 procurement contracts and a judgmental sample of 64 invoices from the vendors and found:

- The Citadel did not have a contract with a public relations vendor paid \$170,000 in FY 11-12 readily available during our fieldwork, but provided a contract during the exit process. However, the college did not provide documentation that the competitive bidding process was followed.
- An internal audit had been planned to review expenditures for the vendor noted above, but the audit was never approved by the Board.
- The Citadel did not abide by the payment terms of vendor contracts, paying invoices after the due date.

Access to Records Denied

We requested a contract and payment details for a specific vendor, but were informed the contract was between The Citadel Foundation and the vendor. The Foundation director referred our inquiry to the college's General Counsel, but did not provide the documentation. The college's General Counsel provided the proposed contract to us because the proposal was addressed to the college President as well as the Foundation, making it a record of the college. The proposal quoted fees of \$495,000 for a six-week period; however, the contract and payment details were not provided. The vendor, a management consulting firm, was paid for services provided on behalf of the college, using the assistance of college staff; therefore, we should have been provided a copy of the contract and payment details. We also question the use of a consulting firm when college employees may have been able to perform the work.

Non-Bid Contract with Vendor

In accordance with S.C. Code §11-35-1520, purchases greater than \$50,000 must be awarded by competitive sealed bids (barring certain exemptions in S.C. Code §11-35-1510). However, the college made payments of \$172,270 to a public relations vendor in FY 11-12 on a contract which was awarded without evidence of the college following the competitive bidding process. This contract was not provided by the college when we inquired about it during our fieldwork, but was provided by the college during the exit process.

The college properly accepted sealed bids and entered into a contract with the same vendor in FY 12-13. The potential value of the contract was \$4 million over the life of the five-year agreement; however, the college elected to exercise the option to terminate the contract in its first year. Payments to the vendor during the contract period, FY 12-13, totaled \$529,593.

Internal Audit Request Not Approved

We found that an internal audit had been planned to review the payments of over \$170,000 the college made to this public relations company. However, the internal audit could not be conducted without final approval from the BOV, which had oversight over the internal audit function at the time. The respective BOV committee did not authorize the internal audit to proceed.

Late Payments

We found that 24 invoices were not paid on time. Using the due date or a reasonable timeframe of 30 days past the invoice date if no payment terms were listed, we found 24 (38%) invoices were paid after the due date or the 30-day timeframe. The payments were made an average of 45 days past the due date or 30-day timeframe.

Recommendations

40. The Citadel should follow the S.C. Consolidated Procurement Code by using the competitive bidding process for purchases over \$50,000.
41. The Citadel should pay vendors in a timely manner, according to the S.C. Consolidated Procurement Code, and the payment terms.

Possible Expenditure Reductions

During our fieldwork, we noted an emphasis placed on “growing revenue.” We found the college should implement better cost-saving efforts, and we found areas where the college may have the opportunity to reduce expenditures. Those areas may include discontinuing degree programs with low interest, or at least decreasing the number of faculty in those programs, and by having a more equitable pay scale comparable with similar institutions in the state.

We found that the college implemented \$1.3 million in raises, including professors, associate professors, and assistant professors when it already pays professors more than most other teaching colleges in South Carolina.

Student-to-Faculty Ratio

We reviewed the Fall 2016 reports from the Commission on Higher Education to determine the student-to-faculty ratio for the college and compared the ratio to the other comprehensive teaching colleges in the state.

Table 5.2: Student-to-Faculty Ratio, Fall 2016

COLLEGE	UNDERGRADUATE ENROLLMENT*	NUMBER OF **FACULTY/STAFF	RATIO: 1
The Citadel	3,082	363	8
Winthrop University	4,829	541	9
USC – Upstate	4,687	450	10
S.C. State University	2,407	231	10
USC – Aiken	2,963	276	11
College of Charleston	9,842	902	11
USC – Beaufort	1,833	165	11
Francis Marion University	3,200	280	11
Lander University	2,628	224	12
Coastal Carolina University	9,535	726	13

* Figures are rounded.

** Includes full-time and part-time faculty.

Source: Commission on Higher Education and LAC Analysis

The Citadel had the lowest student-to-faculty ratio as compared to its counterparts within the state at 8:1, but did not have the lowest enrollment. While a lower student-to-faculty ratio may be attractive to students, it represents higher costs to the college. Records for the college’s Spring 2017 semester show that the school of education had 24 faculty members, half being part-time, with only 45 students enrolled in undergraduate courses in that school and 173 graduate students enrolled in education-related courses.

By discontinuing degree programs that have low interest, or at least decreasing the number of faculty in those programs, the college could have fewer employees, greatly reducing costs when factoring in salaries and benefits. According to the most recent report from the National Center for Education Statistics, which includes only full-time faculty data, the national average for college student-to-faculty ratios is 14:1 for 4-year colleges.

Average Salaries

In comparison with the other nine comprehensive teaching colleges in South Carolina, The Citadel ranked as follows in average highest salaries:

PROFESSOR	\$91,414	3 rd
ASSOCIATE PROFESSOR	\$76,318	1 st
ASSISTANT PROFESSOR	\$66,367	3 rd
INSTRUCTOR	\$46,739	8 th

The following tables show the comparisons.

Table 5.3: Average Salaries for Professors, Fall 2016

INSTITUTION	PROFESSOR AVERAGE SALARY
Coastal Carolina University	\$97,867
College of Charleston	\$94,166
The Citadel	\$91,414
USC – Beaufort	\$84,592
Francis Marion University	\$84,323
Winthrop University	\$81,962
USC – Aiken	\$80,261
S.C. State University	\$75,020
USC – Upstate	\$74,427
Lander University	\$66,276

Source: Commission on Higher Education

**Table 5.4: Average Salaries
for Associate Professors,
Fall 2016**

INSTITUTION	ASSOCIATE PROFESSOR AVERAGE SALARY
The Citadel	\$76,318
College of Charleston	\$75,200
Coastal Carolina University	\$74,539
USC – Beaufort	\$71,893
Winthrop University	\$70,560
Francis Marion University	\$70,017
USC – Aiken	\$66,153
S.C. State University	\$65,733
USC – Upstate	\$63,401
Lander University	\$60,313

Source: Commission on Higher Education

**Table 5.5: Average Salaries
for Assistant Professors,
Fall 2016**

INSTITUTION	ASSISTANT PROFESSOR AVERAGE SALARY
College of Charleston	\$68,741
Coastal Carolina University	\$66,511
The Citadel	\$66,367
Winthrop University	\$62,208
S.C. State University	\$61,258
USC – Aiken	\$60,506
USC – Beaufort	\$59,594
USC – Upstate	\$58,406
Lander University	\$56,964
Francis Marion University	\$55,884

Source: Commission on Higher Education

Table 5.6: Average Salaries for Instructors, Fall 2016

INSTITUTION	INSTRUCTOR AVERAGE SALARY
College of Charleston	\$57,583
Francis Marion University	\$52,507
USC – Beaufort	\$52,281
Coastal Carolina University	\$51,135
S.C. State University	\$50,206
USC – Upstate	\$48,974
USC – Aiken	\$47,897
The Citadel	\$46,739
Winthrop University	\$45,764
Lander University	\$39,381

Source: Commission on Higher Education

Recommendations

42. The Citadel should commit to reducing expenditures by discontinuing degree programs with low interest, or at least decreasing the number of faculty in those programs.
43. The Citadel should establish a more equitable pay scale for the teaching staff to be comparable with other higher education institutions in the state.

LAC's Access to Foundation Records and Foundation Purchasing

In an attempt to fully understand and better report to the General Assembly the relationship between The Citadel and its affiliated private foundations, we requested access to certain records of The Citadel Foundation, the largest affiliated foundation. We were denied access to The Citadel Foundation records.

We were able to access some Foundation information based on documentation available from the college. We found:

- Purchases of goods and services were made by The Citadel Foundation on behalf of The Citadel, potentially violating a well-recognized principle of law that “an act which is forbidden to be done directly cannot be accomplished indirectly.” The Citadel Foundation purchased equipment for the college, but it is unclear whether the maximum benefit from those funds was received since the Foundation is not required to follow the S.C. Consolidated Procurement Code and competitive bids were not obtained.
- At least two foundations are involved in funding or completing permanent improvement projects on campus. The potential exists that funds currently used for academic purposes may be needed to fund a new building, Bastin Hall, if donations are not sufficient to fund it.
- Some memorandums of understanding do not address the utilization of Citadel staff for foundation activities, resulting in the potential for conflicts of interest to exist.
- We were not able to verify whether the Foundation complied with the Solicitation of Charitable Funds Act since requested access to the Foundation’s policy on employee incentive compensation was denied.

Foundations

The Citadel is supported by three separate 501(c)(3) nonprofit, charitable foundations — The Citadel Foundation (the Foundation), The Citadel Brigadier Foundation (Brigadier Foundation), and The Citadel Real Estate Foundation (Real Estate Foundation).

The Foundation was established to provide financial assistance and support for The Citadel. The organization was initially founded in 1960 for the purpose of raising funds exclusively for educational purposes through an academic endowment fund. The Foundation has been modified over time with the consolidation of fundraising entities and is now responsible for raising funds for all purposes, except athletic scholarships.

The Brigadier Foundation was established in 1957 to provide financial assistance and fundraising support for the Citadel athletic department.

The Real Estate Foundation was established in 2016. It may accept unsolicited gifts and grants, acquire property, and distribute funds to or for The Citadel. This organization may request and accept funds from the Foundation, Brigadier Foundation, and other support organizations of the college.

No Access to Foundation Records

These foundations exist to support the college and its core mission to educate and develop students to become principled leaders. Without the college, the foundations would not exist.

The foundations have been described, in essence, as publicly-related entities that are shielded in a thin private veneer. They use The Citadel as a base to generate funding that ultimately supports the foundations and the college. The foundations are performing tasks previously performed by the college and are playing larger roles in construction projects and other activities. As such, these entities should be more transparent regarding their interactions with higher education institutions and the use of funds raised on behalf of and for the institutions they serve.

The foundations should be good stewards of money raised on behalf of the college and should provide access to records to facilitate transparency.

We requested specific Citadel Foundation records and were denied the following:

- A list of Foundation employees, positions, and salaries.
- The incentive compensation plan for Foundation employees.
- Information regarding the college President's compensation package.
- A copy of the contract and payment details for a consulting engagement contract acquired by the Foundation for the college.
- Foundation purchasing procedures regarding the acquisition of the nursing lab equipment.
- Documentation regarding the funds transferred to the college for FY 15-16 and FY 16-17.

Purchasing

The Foundation has funded construction projects and has purchased goods and services for the college.

Construction Projects

The Foundation is involved in funding construction projects on the college's campus including the nursing simulation lab, war memorial, and Wilson field. All of the projects are currently below the \$1 million funding level established by S.C. Code §2-47-50 that requires the establishment of a state permanent improvement project. According to Citadel staff, the nursing lab and the war memorial projects are being managed by the college in accordance with state procurement requirements and Office of the State Engineer regulations. The Wilson field project is being constructed by the Foundation as a gift-in-kind, so state procurement requirements are not being followed. All of the work completed on the projects become part of state property and will be the responsibility of the college for future maintenance.

The Foundation is also party to the Bastin Hall construction project as a funding source. A lease support agreement between the college, the Real Estate Foundation, the Foundation, and South State Bank states that rent payments due from the college to the Real Estate Foundation will be reduced by the funds raised by the Foundation. The agreement indicates that the college is responsible for paying the rent whether or not funds are available from the Foundation or the annual grant the Foundation provides to the college.

The use of the annual grant funds or other funds available to the college for this purpose could result in a decline in resources available for academic programs and impact future tuition costs.

Equipment Purchases

We found that the Foundation purchased equipment for the college's new nursing program; therefore, state procurement requirements were not followed for the purchase of over \$260,000 in simulation lab equipment.

Citadel staff were involved in determining what equipment to purchase and in discussions with three potential vendors regarding the equipment; however, only one quote was obtained from a vendor. The quote was then forwarded to the Foundation to complete the purchase, circumventing state procurement requirements. The Foundation has indicated that the funds used to purchase this equipment were provided by a donor and were restricted for this purpose. Since competitive bids were not obtained, it is unclear whether the maximum benefit from those funds was received.

Services and Other Funds

The Foundation also provides funds for scholarships and employee stipends as part of its annual grant to the college. It provides travel funds for the President of the college as part of his compensation package. The President has a Foundation credit card to facilitate this activity.

According to the Foundation's 2016 financial statements, the college owed the Foundation \$31,000 at the end of the year. The Foundation indicated that the funds owed were for a human resources' consulting project that was acquired by the Foundation on behalf of the college. In addition to this consulting engagement, the Foundation hired another consulting group on behalf of the college to study fiscal sustainability. Without access to the Foundation's records, we were unable to confirm whether there were competitive procurement practices as would be required if these activities followed the state procurement code.

Memorandums of Understanding

Memorandums of Understanding (MOU) aid in clarifying the boundaries between higher education institutions and foundations. These agreements should clarify responsibilities for activities that are conducted jointly by the foundation and institution, clarify relationships between institution and foundation staff, and affirm the foundation's status as an independently-governed charitable organization.

The Citadel Foundation

A MOU was created between The Citadel and the Foundation in April 2012, to retain the Foundation as an independent contractor for fundraising and asset management purposes. The MOU states that the President of the college is required to participate in the cultivation of potentially significant contributors to the Foundation. This requirement is also stipulated in his personal employment contract.

The Foundation agrees to provide supplements for several key management positions at the college, including the President and Provost. The President of the college is required to serve as a voting, ex officio member of the Foundation's board of directors, and the Foundation's CEO is required to be a member of the college's executive staff.

The MOU does not stipulate terms regarding the use of other staff. For example, the agreement provides for the Foundation to have access to the Citadel IT network. In order for this to occur, Citadel staff would be involved in establishing and maintaining access. This would result in the use of state resources on behalf of a nonprofit entity.

The Foundation is responsible for its office space, computer, phone systems, utilities, office supplies, personnel, and other services deemed necessary to fulfill its purpose.

The MOU further provides that the Foundation may use a "reasonable percentage" of the annual unrestricted funds, funds not designated for a specific purpose, to support these operations; however, the MOU does not specify what is considered to be a "reasonable percentage." A review of the Foundation's 2015 tax return indicated that the top five positions received over \$840,000 in salary compensation with a total of over \$4 million in salary, benefits, and payroll tax for the year for all staff.

In addition to this operational support, the Foundation also receives over \$500,000 for its fundraising services from the Citadel Trust, a nonprofit entity formed in 1991 to invest funds for the purpose of providing scholarships and other financial support to the college.

The agreement also stipulates that future funding provided by the Foundation is “predicated upon The Citadel’s compliance with performance requirements.” However, these performance requirements are not specified in the MOU.

The Citadel Brigadier Foundation

The MOU was initiated in January 2004 to retain the Brigadier Foundation as an independent contractor for fundraising purposes for athletic scholarships. The MOU does not stipulate terms regarding the use of Citadel staff. This could result in the use of Citadel staff for Brigadier Foundation work, which would result in the use of state funds on behalf of a nonprofit.

A separate employment document was provided to the LAC which indicates that one employee works for both the Brigadier Foundation and the college. The document stipulates that a portion of the employee’s salary is paid by the Brigadier Foundation and the rest is paid with state funds; however, based on information provided by the college, this individual is classified as a state employee of the college, but is totally funded by and works for the Brigadier Foundation.

The Citadel Real Estate Foundation

As of July 24, 2017, the Citadel did not have a MOU with the Real Estate Foundation. However, the Real Estate Foundation has several other agreements with entities, including the college, the Foundation, S.C. Jobs Economic Development Authority (JEDA), and South State Bank. These agreements are specifically regarding the loan of \$17.5 million via a JEDA bond and subsequent leasing of property between the college and the Real Estate Foundation for the purpose of constructing a new building on campus, Bastin Hall. This arrangement allows the construction to move forward without impacting the state constitutional debt limit.

In the agency agreement between the Real Estate Foundation and the college, the Real Estate Foundation declares the college to be its agent for the purpose of constructing Bastin Hall, including procurement, construction, installation, and completion of the project. The agreement further stipulates that the Real Estate Foundation will be named as the contracting party on all agreements relating to the procurement of the project. The result is that Citadel staff are and will be performing duties on behalf of the Real Estate Foundation. While there is no specific stipulation regarding reimbursement for state employee efforts on behalf of the Real Estate Foundation, the multi-million dollar building will be donated to the college once it is completed.

We reviewed a potential conflict of interest and found that a BOV member with ties to South State Bank recused himself during the portion of the BOV meeting regarding this arrangement.

Exemption of Foundation

In an effort to determine whether the Foundation qualifies for the educational institution exemption according to the S.C. Solicitation of Charitable Funds Act, we requested the Foundation's policy on the employee incentive compensation plan that was described as being based on the achievement of team and personal goals, according to Foundation management. If this compensation is a commission that is computed on the basis of funds raised or to be raised, the Foundation may be considered a professional solicitor under S.C. Code §33-56-20 and would not be exempt from filing its Federal Form 990 Return of Organization Exempt from Income Tax.

The Foundation's response was as follows: "As the policy is a TCF [The Citadel Foundation] policy and pertains to TCF employees, I will not be able to forward the document. I have copied The Citadel's General Counsel on this email...."

Due to the denial of access to this information, we were unable to determine whether the Foundation is complying with state law.

Recommendations

44. The General Assembly should amend state law to require state entities and affiliated foundations to clarify, in written agreements, their relationships, responsibilities, and utilization of resources.
45. The General Assembly should clarify whether state employees are allowed to solicit funds for private foundations, perform services, or expend state resources for private foundations. If the General Assembly chooses to expressly authorize this practice, legislation requiring foundations to repay the state for all fundraising and other expenses incurred should be enacted.
46. The Citadel should ensure there are up-to-date Memorandums of Understanding with all affiliated foundations to clarify the relationships and utilization of resources, especially staff.

Administrative Issues

Internal Auditor Not Reporting to the Board of Visitors

During our audit, we found:

- The internal auditor should report to the Board of Visitors (BOV) to ensure independence.
- Several other positions should be restructured to have them report to the President to give them the proper positioning to carry out their duties.

Currently, the internal auditor reports to the Chief Compliance Officer, who reports to the Vice President of Finance. This arrangement is not ideal since finance is a department that is subject to internal audits and management is involved with audit decisions. The internal auditing function is less effective due to this impaired independence. The lack of independence may lead to proposed audits being suppressed. This may have been the case with the proposed audit of a public relations vendor discussed previously in this report.

In the past, the internal auditor was a contract employee who reported to the chairman of the audit committee for the Board of Visitors. The BOV committees were restructured in June 2014 with the audit function currently overseen by the operations and risk management committee. The BOV has the responsibility for the direction and supervision of the college and is the appropriate authority to oversee the internal auditor in order to maintain proper authority and independence.

According to the Institute of Internal Auditors' (IIA's) standards, internal auditors should be free from any interference of identifying the audit scope of work and communicating results. Based on our review, the internal audit position is not free from interference. We found instances where the issuance of audit reports was delayed, audit report management responses were inappropriately modified, and monthly status reports were delayed by management.

Placement of Other Staff

In addition to the internal auditor, we found other staff positions which may be better suited under a different reporting structure to be more in line with their important roles:

CAMPUS ADVOCACY, RESPONSE, AND EDUCATION (CARE) DIRECTOR

This position currently reports to the Commandant. Initially, this position reported to the President. This person is primarily responsible for providing victim support and response services for each report of sexual assault or sexual harassment made by any student.

TITLE IX COORDINATOR

This position reports to the Chief Compliance Officer. This person handles reports of discrimination on the basis of sex in any federally-funded program or activity and is responsible for preventing and promptly investigating reports of sexual discrimination, harassment, and violence.

CHIEF COMPLIANCE OFFICER

This position currently reports to the Vice President for Finance. Initially, the position reported to the President. This person is responsible for handling complaints received through the hotline and for developing policies for the college.

The CARE Director, Title IX Coordinator, and Chief Compliance Officer may be better suited reporting to the President, or at least to the Senior Vice President for Operations and Administration.

Also, the SPECIAL ASSISTANT TO THE PRESIDENT FOR BOARD MATTERS is listed under the Office of the President, but organizationally reports to the General Counsel and, administratively, to the Executive Assistant to the President. This position would be better suited reporting directly to the President.

Recommendations

47. The Citadel should have the internal auditor report directly to the chairman of the Board of Visitors in order to be under the appropriate authority and to maintain independence.
48. The Citadel should change the reporting structure for the CARE Director, Title IX Coordinator, Chief Compliance Officer, and the Special Assistant to the President for Board Matters to have them report to the President.

Approval for Outside Counsel Not Submitted

We reviewed the college's use of outside counsel and found:

- The college made no submissions to the Attorney General's office in FY 16-17 for the use of outside counsel, even though it paid for the services of outside counsel.
- For years FY 14-15 – FY 16-17, there were no approval forms for the law firm where one of the attorneys employed there is considered the counsel for the Board of Visitors, even though the college made payments to this firm in each of these years.
- Payments for outside counsel prior to FY 16-17 were higher than the state guidelines.

The Attorney General (AG) must approve a request form, Form 1, for agencies to pay outside counsel. We requested documentation from the AG's office for Form 1 submissions by the college for FY 10-11 through FY 16-17. The AG's office informed us that the college made no Form 1 submissions for FY 16-17, yet we found that independent attorneys provided services to the college during FY 16-17. We were provided Form 1's which had been submitted by the college for previous years and found some that were authorized for payments outside of state guidelines.

Payment Rates Not Regulated

The AG's office stated that the paying agency must have a request form on file with the AG in order for the agency to process the payment. The AG's office stated that it does not follow up with an agency that has not filed with them. The payment rates are not mandated by statute but have been the same since at least 2008.

The requesting agency can request a higher rate with justification given which may be approved, particularly for services provided by criminal attorneys. If the AG's office approves a higher rate one year, according to an official, it will automatically be approved the next year. Table 6.1 shows the current hourly rates based on years of experience for the attorney. The AG's office also stated that it is acceptable to approve a flat fee for attorney services, but that is usually in the area of real estate.

Table 6.1: Current Hourly Rates for Outside Counsel

YEARS OF EXPERIENCE	HOURLY RATE
0-3	\$80
3-5	\$90
6-10	\$110
10 or more	\$150

Source: Attorney General's Office

We noted the college had been approved to pay outside counsel at rates well above the state guidelines. We found the AG's office had approved hourly rates of \$250 for two attorneys, three separate times between FY 13-14 and FY 15-16. The same attorneys, however, had been paid \$150 in FY 11-12 for legal representation during a criminal investigation of the college. We also found that the AG's office had approved flat fee arrangements on two occasions for representation from other attorneys for unrelated matters.

Recommendations

49. The Citadel should file the appropriate request form for all outside counsel with the Attorney General in a timely manner.
50. The Citadel should hire attorneys whose rates are more in line with the state guidelines.

Title IX Compliance and Sexual Assault Investigations

Title IX is the federal civil rights law that prohibits discrimination on the basis of sex in any educational program or activity that receives federal funding. Title IX also addresses sexual harassment, sexual violence, or any sex-based discrimination that may interfere with a person's access to educational benefits and opportunities.

We completed a limited review of 67 case summaries from Title IX investigations from August 2014 – June 2017 and records from the Campus Advocacy, Response, and Education (CARE) program. We did not identify material deficiencies in the handling of these cases.

LAC Survey of Citadel Faculty and Staff

The LAC survey of Citadel faculty and staff was conducted between April 4, 2017 and April 28, 2017 using SurveyMonkey®. A total of 1,041 survey invitations were sent. We received 399 complete responses and 52 partial responses, for a total of 451 responses (43.3%). The survey was conducted anonymously, and the open-ended responses have been omitted in order to preserve anonymity for The Citadel faculty and staff who participated.

1. How long have you been employed at The Citadel? Please select the closest option.		
Answer Options	Response Percent	Response Count
Less than 1 year	10.64%	48
1 to 3 years	22.39%	101
4 to 6 years	17.52%	79
7 to 10 years	15.08%	68
More than 10 years	34.37%	155
<i>answered question</i>		451
<i>skipped question</i>		0

2. Please select the senior administrator who oversees your position or functional area.		
Answer Options	Response Percent	Response Count
Provost (Select this option if you are faculty)	38.58%	174
Provost (Select this option if you are non-faculty)	24.39%	110
Senior Vice President for Operations and Administration	11.75%	53
Vice President for Business and Finance	7.98%	36
Vice President for Communications and Marketing	1.33%	6
Commandant of Cadets	9.98%	45
Director of Intercollegiate Athletics	4.66%	21
Vice President for Institutional Advancement	1.11%	5
President	0.22%	1
<i>answered question</i>		451
<i>skipped question</i>		0

3. Please select all of the options below that reflect your opinions of the cadet discipline process.		
Answer Options	Response Percent	Response Count
The cadet discipline process is appropriate and does not need to be changed.	32.41%	141
The cadet discipline process is administered fairly and consistently for all cadets.	37.24%	162
The cadet discipline process is sometimes applied inconsistently.	32.87%	143
The cadet discipline process needs improvements.	26.90%	117
The cadet discipline process is susceptible to favoritism (i.e. athletes, Regimental Band and Pipes, Summerall Guards, etc.).	20.69%	90
<i>answered question</i>		435
<i>skipped question</i>		16

4. What changes or improvements, if any, should be made to the cadet discipline process?	
Answer Options	Response Count
Open-Ended Responses Only	172
<i>answered question</i>	
172	
<i>skipped question</i>	
279	

5. Do you believe hiring practices for faculty and administrators are fair and equitable?		
Answer Options	Response Percent	Response Count
Yes	72.49%	311
No	27.51%	118
<i>answered question</i>		429
<i>skipped question</i>		22

Appendix A
LAC Survey of Citadel Faculty and Staff

6. In your opinion, how involved should the Board of Visitors be in decisions regarding each of the following areas?						
	Not at all involved	Slightly involved	Somewhat involved	Very involved	Extremely involved	Total
Cadet discipline	42.01% 171	24.57% 100	25.55% 104	4.91% 20	2.95% 12	407
Hiring of vice presidents	14.99% 61	16.22% 66	26.54% 108	26.54% 108	15.72% 64	407
Hiring of faculty	55.77% 227	21.13% 86	18.18% 74	3.93% 16	0.98% 4	407
Academic programs	27.52% 112	25.80% 105	30.22% 123	13.76% 56	2.70% 11	407
Capital spending	3.93% 16	9.58% 39	26.54% 108	35.14% 143	24.82% 101	407
Strategic planning	4.42% 18	8.60% 35	24.82% 101	28.75% 117	33.42% 136	407
Setting tuition	9.34% 38	13.02% 53	30.96% 126	28.75% 117	17.94% 73	407
Setting student fees	12.78% 52	16.22% 66	33.91% 138	23.34% 95	13.76% 56	407
Improving the efficiency of institutional operations	11.79% 48	17.44% 71	35.38% 144	22.60% 92	12.78% 52	407
Ensuring affordability for students	5.65% 23	9.83% 40	28.50% 116	31.70% 129	24.32% 99	407

7. From your experiences and observations, how involved is the Board of Visitors in decisions regarding each of the following areas?							
	Not at all involved	Slightly involved	Somewhat involved	Very involved	Extremely involved	No opinion	Total
Cadet discipline	9.83% 40	12.04% 49	21.13% 86	10.81% 44	7.13% 29	39.07% 159	407
Hiring of vice presidents	6.39% 26	6.39% 26	15.72% 64	14.74% 60	11.30% 46	45.45% 185	407
Hiring of faculty	28.99% 118	12.53% 51	10.07% 41	3.19% 13	1.72% 7	43.49% 177	407
Academic programs	10.57% 43	14.74% 60	17.94% 73	10.81% 44	4.91% 20	41.03% 167	407
Capital spending	1.72% 7	2.95% 12	12.78% 52	19.66% 80	24.57% 100	38.33% 156	407
Strategic planning	1.72% 7	3.69% 15	16.46% 67	17.44% 71	25.31% 103	35.38% 144	407
Setting tuition	2.46% 10	4.67% 19	13.51% 55	16.22% 66	24.08% 98	39.07% 159	407
Setting student fees	4.67% 19	4.67% 19	12.78% 52	15.72% 64	17.44% 71	44.72% 182	407
Improving the efficiency of institutional operations	8.85% 36	9.34% 38	16.95% 69	12.29% 50	9.09% 37	43.49% 177	407
Ensuring affordability for students	5.65% 23	7.62% 31	18.18% 74	13.27% 54	11.30% 46	43.98% 179	407

8. Please select one of the following statements that best reflects your opinion regarding the membership of the Board of Visitors.		
Answer Options	Response Percent	Response Count
The Board of Visitors should have both Citadel graduates and non-Citadel graduates.	74.81%	303
All members of the Board of Visitors should be required to be graduates of The Citadel, including either the Corps of Cadets or the Citadel Graduate College.	25.19%	102
<i>answered question</i>		405
<i>skipped question</i>		46

9. Please select one of the following statements that best reflects your opinion regarding the cost and value of attending The Citadel.		
Answer Options	Response Percent	Response Count
The Citadel is underpriced relative to its value.	14.07%	57
The Citadel costs what it should relative to its value.	65.93%	267
The Citadel is too expensive relative to its value.	20.00%	81
<i>answered question</i>		405
<i>skipped question</i>		46

10. Please provide any other concerns, comments, or suggestions that you think might be useful for our review of The Citadel. Please remember that all of your responses are anonymous.	
Answer Options	Response Count
Open-Ended Responses Only	161
<i>answered question</i>	
161	
<i>skipped question</i>	
290	

LAC Survey of Current and Former Members of The Citadel Board of Visitors

The LAC survey of current and former members of The Citadel Board of Visitors was conducted between April 4, 2017 and April 28, 2017 using SurveyMonkey®. A total of 25 survey invitations were sent. We received 11 complete responses and no partial responses, for a total of 11 responses (44.0%). The survey was conducted anonymously, and the open-ended responses have been omitted in order to preserve anonymity for the current and former members of the Board of Visitors who participated.

1. Are you a current or former member of The Citadel Board of Visitors?		
Answer Options	Response Percent	Response Count
Current Member	63.64%	7
Former Member	36.36%	4
answered question		11
skipped question		0

2. In your opinion, what level of trust exists, or existed, between the Board of Visitors and the college administration?		
Answer Options	Response Percent	Response Count
Very high level of trust	72.73%	8
High level of trust	9.09%	1
Moderate level of trust	18.18%	2
Low level of trust	0.0%	0
Very low level of trust	0.0%	0
answered question		11
skipped question		0

3. In your opinion, how effectively has the college administration communicated with the Board of Visitors on important issues that you have been asked to consider?		
Answer Options	Response Percent	Response Count
Not effectively	9.09%	1
Slightly effectively	0.0%	0
Somewhat effectively	9.09%	1
Very effectively	36.36%	4
Extremely effectively	45.45%	5
answered question		11
skipped question		0

4. In your opinion, how involved should the Board of Visitors be in decisions regarding each of the following areas.						
	Not at all involved	Slightly involved	Somewhat involved	Very involved	Extremely involved	Total
Cadet discipline	0.00% 0	36.36% 4	27.27% 3	18.18% 2	18.18% 2	11
Hiring of vice presidents	0.00% 0	9.09% 1	45.45% 5	36.36% 4	9.09% 1	11
Hiring of faculty	81.82% 9	9.09% 1	0.00% 0	9.09% 1	0.00% 0	11
Academic programs	9.09% 1	18.18% 2	18.18% 2	45.45% 5	9.09% 1	11
Capital spending	0.00% 0	0.00% 0	9.09% 1	9.09% 1	81.82% 9	11
Strategic planning	0.00% 0	0.00% 0	0.00% 0	0.00% 0	100.00% 11	11
Setting tuition	0.00% 0	0.00% 0	9.09% 1	9.09% 1	81.82% 9	11
Setting student fees	9.09% 1	0.00% 0	9.09% 1	18.18% 2	63.64% 7	11
Improving the efficiency of institutional operations	0.00% 0	0.00% 0	36.36% 4	27.27% 3	36.36% 4	11
Ensuring affordability for students	0.00% 0	9.09% 1	0.00% 0	45.45% 5	45.45% 5	11

5. Based on your experience as a member, how involved is, or was, the Board of Visitors in decisions regarding each of the following areas.						
	Not at all involved	Slightly involved	Somewhat involved	Very involved	Extremely involved	Total
Cadet discipline	0.00% 0	54.55% 6	36.36% 4	9.09% 1	0.00% 0	11
Hiring of vice presidents	18.18% 2	27.27% 3	27.27% 3	27.27% 3	0.00% 0	11
Hiring of faculty	72.73% 8	9.09% 1	18.18% 2	0.00% 0	0.00% 0	11
Academic programs	0.00% 0	36.36% 4	18.18% 2	27.27% 3	18.18% 2	11
Capital spending	0.00% 0	0.00% 0	0.00% 0	45.45% 5	54.55% 6	11
Strategic planning	0.00% 0	0.00% 0	0.00% 0	36.36% 4	63.64% 7	11
Setting tuition	9.09% 1	0.00% 0	0.00% 0	45.45% 5	45.45% 5	11
Setting student fees	18.18% 2	0.00% 0	18.18% 2	45.45% 5	18.18% 2	11
Improving the efficiency of institutional operations	0.00% 0	0.00% 0	54.55% 6	36.36% 4	9.09% 1	11
Ensuring affordability for students	9.09% 1	9.09% 1	9.09% 1	54.55% 6	18.18% 2	11

6. Please select one of the following statements that best reflects your opinion regarding the membership of the Board of Visitors.		
Answer Options	Response Percent	Response Count
The Board of Visitors should have both Citadel graduates and non-Citadel graduates.	9.09%	1
All members of the Board of Visitors should be required to be graduates of The Citadel, including either the Corps of Cadets or the Citadel Graduate College.	90.91%	10
<i>answered question</i>		11
<i>skipped question</i>		0

7. Please provide any other concerns, comments, or suggestions that you think might be useful for our review of The Citadel. Please remember that all of your responses are anonymous.	
Answer Options	Response Count
Open-Ended Responses Only	7
<i>answered question</i>	
7	
<i>skipped question</i>	
4	

Agency Comments

Appendix C
Agency Comments



OFFICE OF THE PRESIDENT

October 13, 2017

Mr K. Earle Powell
Director, Legislative Audit Council
1331 Elmwood Avenue, Suite 315
Columbia, South Carolina 29201

Dear Mr Powell:

The Citadel is proud of its mission to educate and develop students to become principled leaders in all walks of life, and we are pleased with our progress in positioning the college for long term success. We embrace the legislative process that has unfolded in this audit; indeed, thousands of our alumni have served, and hundreds have sacrificed their lives to protect the freedoms that allow it.

As you may know, The Citadel is in the final year of a six-year strategic plan, which incorporated the contributions of our campus community, our Board, and our key stakeholders. In implementing the plan, which reflects years of thoughtful development and planning, we are refining and communicating the elements of the Citadel experience that have resonated so well with potential members of the Corps of Cadets, as well as with students who are breaking enrollment records in our Citadel Graduate College.

The values-based education model we commit to at The Citadel is in demand because the leadership model we teach is sorely needed in both public service fields and private enterprise. Of course, that unique commitment also requires a unique staffing model and resource requirements to fulfill, especially in the constrained budget environment in which state appropriations have dwindled from over 20 percent of our operating budget in 2006 to less than 9 percent in 2017.

We worked closely with the Legislative Audit Council to explain the differences between what we do at The Citadel and the means and methods other public colleges in South Carolina use to accomplish their missions. To that end, we provided detailed feedback to the draft report entitled, *A Limited Review of The Citadel*. We appreciated the opportunity "to correct," as your staff explained, "errors or misinterpretations in the report before it becomes final." We are concerned that many of our observations and suggestions were not incorporated into the final report. Thus, in the document that follows, we take this opportunity to provide a detailed explanation of our concerns on those specific issues.

A number of the LAC report's findings and recommendations are directed to the S.C. General Assembly. These include recommendations for legislation to address certain issues. Because these recommendations are in the purview of the Legislature to consider, we offer no opinions on them, though we do provide comment on certain of the report's observations that led to the recommendations.

Sincerely,

John W. Rosa
Lieutenant General, USAF (Retired)
President

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The Citadel's Response to the Legislative Audit Council Report

Chapter 1: Introduction and Background

Scope Impairment

The Citadel denied the LAC auditors access to an expulsion appeal hearing in compliance with the Family Educational Rights and Privacy Act (FERPA) 20 USC 1232g. The Citadel does not have the authority to waive a cadet's rights to a closed hearing under federal law. In fact, after The Citadel informed the cadet's attorney of LAC's request to observe the Board appeal, the attorney responded that his client "objects to the opening of this hearing to members of the South Carolina Legislative Audit or any members of the media. In accordance with FERPA (Family Educational Rights and Privacy Act) my client is entitled to basic protections and I believe opening this hearing will violate those privacy rights." The attorney specifically requested The Citadel's General Counsel to "confirm that this hearing will remain closed to the public and the Legislative Audit Council in accordance with FERPA." The Citadel provided this correspondence to the LAC. Nevertheless, the Council did not recognize that The Citadel denied the LAC admittance to the hearing in accordance with federal law.

The Citadel also disagrees with the Council's claim that auditors should have been allowed to participate in executive sessions during which the Board of Visitors asked for and received legal advice from The Citadel's General Counsel and/or outside counsel. Allowing access would have waived the attorney-client privilege and exposed The Citadel to considerable potential liability. The attorney-client privilege recognizes that the best interest of society is served by protecting the confidential disclosures between clients and their attorneys. Courts have long held that that when individuals or companies disclose information to independent auditors they waive the attorney-client privilege. See United States v. El Paso Co., 682 F.2d 530, 540 (5th Cir. 1982). Thus, allowing the auditors access to the confidential communications between the Board of Visitors and its attorneys could have put the school in legal jeopardy, and in fact, could have constituted a breach of fiduciary duty by the Board.

Chapter 2: Board of Visitors

Members Elected by The Citadel Alumni Association

The Citadel respectfully disagrees with the Council's conclusion that the past two chairmen of the Board of Visitors "were not accountable to the General Assembly or by extension, the citizens and taxpayers of South Carolina." Association-appointed Board members are clearly accountable to the General Assembly, the citizens, and taxpayers of South Carolina as "public officers" under a number of state statutes. See e.g. S.C. Code Ann. §§ 8-1-10, 8-1-80, and 1-3-240.

Inability of Ex Officio Members to Appoint Designees

The Council is incorrect in its conclusion that an *ex officio* member of the Board of Visitors "has appointed a designee... which is not allowed by state law." The Board of Visitors extends the right of voice to designees of ex officio members; it does not extend the right to vote at Board of Visitors meetings. Thus, designees of *ex officio* members attend meetings of the Board of Visitors and offer their

opinions, and the opinions of the *ex officio* members, but they do not vote, and they have never voted. Minutes of Board of Visitors meetings that are available to the public, and provided to the Council, confirm this fact. Also, since at least June, 2013, the *College Regulations* have specifically provided that “If the ex-officio member does not attend, but elects to send a representative instead, that representative may present comments and/or opinions on behalf of the ex-officio member, but the representative shall not have voting rights.” *College Regulations*, Section IX, Paragraph 4.h (Emphasis added) (available online at <http://www.citadel.edu/root/images/policies/college-regulations.pdf>).

LAC’s Inability to Attend Board Appeal

The Citadel also disagrees with the council’s position that S.C. Code § 2-15-10, “has been interpreted” to give it access to executive sessions of governing boards. Indeed, in 2002, the South Carolina Attorney General reached the exact opposite conclusion. See Letter to Latonya Dilligard Edwards, April 26, 2012 (provided to LAC and available online). Two opinions of the U.S. Department of Education’s Family Policy Compliance Office further support The Citadel’s actions. See Letter of LeRoy S. Rooker, Director, Family Policy Compliance Office, to Thomas Anderson, Utah Assistant Attorney General, and Letter of LeRoy S. Rooker to Ardith Lynch, Alaska Assistant Attorney General (concluding FERPA allows state auditors to conduct limited review of records of educational institutions) (available online and provided to LAC). However, neither those opinions nor others authorize auditors to observe or otherwise participate in federally-protected student hearings. In accordance with this authority, The Citadel granted the Council unfettered access to the disciplinary records of current and former students, but did not allow LAC auditors to observe the appeal.

FOIA Compliance at Board Meetings

The Council is incorrect in concluding that a Board of Visitors dinner at a private club violated the S.C. Freedom of Information Act. FOIA defines a “meeting” of a public body as “the convening of a quorum of the constituent membership of a public body... to discuss or act upon a matter over which the public body has supervision, control, jurisdiction or advisory power.” S.C. Code Ann. 30-4-20 (d) (Emphasis added). During its evening dinner on June 9, 2017, however, the Board did not intend to “discuss, decide, or receive information as a group on issues relating to the official business of” The Citadel, nor did it engage in any of those activities. Rather, members of The Citadel Board, their spouses, members of the school’s administration, and their spouses dined together at The Carolina Yacht Club on the evening of Friday, June 9, 2017. In short, the event on June 9 was a social event, not a “meeting.” A recent South Carolina Attorney General letter confirms that members of public bodies may meet socially without violating FOIA. See Op. Atty. Gen. (August 5, 2014) (available online and provided to LAC). The Council’s position that the Board’s June 9 dinner violated FOIA is incorrect.

Robert’s Rules of Order

The Council also concludes incorrectly that the Board of Visitors has not followed Robert’s Rules of Order. Robert’s Rules specifically provides that “In a board meeting where there are not more than about a dozen members present, some of the formality that is necessary in a large assembly would hinder business. The rules governing such meetings are different from the rules that hold in other

assemblies, in the following respects:...Motions need not be seconded." RONR, (11th ed.), p487, ll.26-31, p.488, ll. (Emphasis added). The Citadel's Board of Visitors may follow this procedure since there are only eleven voting members.

Special Meetings

The LAC's inability to determine if meeting agendas were posted in a timely manner prior to the audit does not identify any error, oversight or concern. The Citadel is unable to identify a rationale for this section of the report.

Chapter 3: Cadet Discipline

Adjudication Venues for Class 1 Offenses

The Council's statement that they were unable to "identify any rationale" for The Citadel's resolution of "the same disciplinary offense ... (in) different venues" ignores the provided explanations of school officials during the Council's audit as well as The Citadel's response to the draft report. A number of factors, each specifically outlined for the LAC, affect the school's determination of the appropriate venue for disciplinary offenses, including: timeliness (certain cases require the coordination of schedules for significant numbers of participants); sensitivity of the disciplinary violation at issue, (Title IX guidelines impose special requirements for sexual Harassment and sexual assault cases); and consistency. In short, when the school uses alternate venues to address disciplinary matters, it does so in the interest of maintaining flexibility to and responsiveness for the cadets involved.

Penalties for Consensual Activity on Campus

The Council's inability to identify any "justification for treating consensual sexual activity as a violation as egregious as hazing and sexual assault" ignores The Citadel's peer leadership model within the Corps of Cadets. This environment is far different from the dorm environment at other like-sized institutions, because cadets supervise and lead other cadets in a rigorous training environment, and in performance of their cadet duties and responsibilities. The LAC also ignored the fact that expulsion for consensual sex is not mandatory. In other words, the college rightfully retains the flexibility to expel cadets for sexual activity on campus if circumstances warrant.

Inconsistencies in Application of Discipline

The Council concludes that the LAC survey of faculty and staff indicated there are perceived inconsistencies among the disciplinary actions of the TAC officers in each company and battalion. The Citadel acknowledges that not all decisions are the same, but decisions are consistently applied within the ranges allowed under The Citadel's rules and regulations. Each cadet and each situation is different; therefore TACs need discretion to employ the range of approaches and levels of enforcement within the rules and regulations.

The LAC states a "survey of Citadel faculty and staff revealed that a number of people on campus perceive there is favoritism towards athletes and legacies and there is a need for more

transparency and consistency in disciplinary actions.” However, according to the survey results provided, only 20.69%, or 90 out of the 435 responses, stated that they think the system is susceptible to favoritism. The results do not specify that respondents actually perceive favoritism, and the numbers who even believe the system is susceptible are far below the majority.

Chapter 4: Human Resources

President’s Compensation Package

One of the three reasons the legislators cited in their request that the Legislative Audit Council conduct a review of The Citadel was their concern that “the President has established, for himself, a compensation plan that allows for him to establish his own rate of pay.” After conducting its initial field work, the LAC auditors identified one of their audit objectives as “Determine how the compensation package for the college’s President is established.” The draft report makes brief mention of the president’s total compensation, and it includes a partial identification of the elements of his compensation. Because the draft report did not explain the Board’s role in establishing the President’s compensation, or “how” the president’s compensation rate is established, The Citadel provided a detailed narrative using publicly available Board of Visitors’ meeting minutes (<http://www.citadel.edu/root/bov-minutes>; [September 8, 2007](#); [August 2, 2010](#); [August 13, 2010](#); [December 16, 2010](#); [April 25/26, 2014](#); [June 13/14, 2014](#); [June 24, 2014](#); [June 12/13, 2015](#)) to supplement the information already provided by the board and definitively demonstrate that the Board of Visitors determined the President’s compensation. Nevertheless, the Council failed to definitively address one of the original issues that led to the audit.

In the interest of transparency, a detailed spreadsheet including a complete breakdown of the President’s compensation is at Attachment 1.

Hiring Process for Faculty and Staff

The Council’s criticism of one employee’s hiring and promotion overlooks both facts and the law. The Council alleges that “One employee was hired after being interviewed by only one person and was later given a newly-created, executive position with a substantial pay increase. The President had formerly been the supervisor of this employee while serving at the U.S. Air Force Academy.” In reaching these conclusions, though the Council ignored documents provided by The Citadel’s Department of Human Resources that clearly showed the employee competed for the position as Executive Assistant to the President in 2008; documents likewise demonstrated that The Citadel selected him from a pool of several candidates. The Council similarly ignored documentation that the school later advertised the Associate Vice President for Operations position and again selected the employee from the resulting pool of candidates. South Carolina law specifically allows an agency to promote an employee one organizational level above the employee’s current level without advertising the position. See S.C. Reg. 19-703.04 B. The Citadel invoked that provision to subsequently promote this employee. South Carolina law contains no prohibition barring employment of candidates whom the hiring authority had

previously supervised; indeed, prior familiarity among employees typically fosters success in future employment relationships. Therefore, the Citadel respectfully disagrees with the Council's conclusion on this issue.

Possible Preferential Treatment

The Council's criticism of The Citadel's employment of veterans is unfounded. As The Military College of South Carolina, many of The Citadel's positions require a military background. Nonetheless, only 20% of the school's employees are veterans. In accordance with state and federal law, the college considers a variety of experiences and backgrounds during its hiring process, and the school is committed to a competitive hiring process. In June 2015, Governor Nikki Haley recognized The Citadel as a Certified Palmetto Military Employer; the school was the first comprehensive higher education institution to receive that recognition. To maintain this prestigious certification, The Citadel is committed to hiring veterans at a minimum of 5% of our new employees. In short, The Citadel is very proud that 20% of its faculty and staff served in the armed services.

Chapter 5: Revenues and Expenditures

The Council states that The Citadel Foundation records were closed, which hindered their audit. The Foundation responded in writing to explain why opening such records would be inappropriate; however, the explanation is unacknowledged in the final LAC report. The following is quoted from the letter The Citadel Foundation provided to the Legislative Audit Council:

"The LAC's Draft Report states that records from The Citadel Foundation (the Foundation) were closed to the LAC and implies that this hindered the LAC's audit of The Citadel. The Foundation regrets this conclusion as the Foundation took strides to cooperate fully with the LAC during the audit. Although the Foundation declined to provide written documents, the LAC was advised of sources where the requested information could be obtained, specifically including, in addition to The Citadel or The Citadel Trust, the Foundation's publicly filed IRS Forms 990, the Foundation's website, and the Foundation's audited financial statements (available via the website).

"The Foundation also respectfully responds that, the Foundation is not a governmental entity. The IRS has long recognized the Foundation's status as a private 501 (c) (3) organization. As a private organization whose purpose is to support The Citadel, the Foundation provides great value to The Citadel through the fundraising efforts conducted by Foundation employees. The Foundation fully complies with, and provides more transparency than is required by, the laws applicable to 501 (c) (3) organizations in South Carolina. As a private organization, the Foundation directly pays all employees, maintains its own benefits plan to include health insurance and 401(k) retirement plan. No foundation employee participates in SC State benefits or the State retirement plan.

"The Draft report indicates the LAC was unable to verify the Foundation's compliance with the Solicitation of Charitable Funds Act because documentation about employee incentive compensation

was not provided. The Foundation is not subject to the Solicitation of Charitable Funds Act under. § SC Code 33-56-20(1)(b)(5)(b) because the Foundation performs sanctioned fundraising activities on behalf of an educational institution and does not employ professional solicitors, professional fundraising counsel or commercial co-venturers (as defined at. § S.C. Code Ann. 33-56-20).

“Information about the compensation of Foundation fundraising employees is available in the publicly accessible recent IRS Form 99 (Return of Organization Exempt From Income Tax) Part VII and Schedule J of Form 990 include significant information regarding officers directors, trustees, key employees and highly compensated employees. The information includes, but is not limited to names, titles, hours worked and total compensation for officers, key employees and employees who earn more than \$100,000 per year. Schedule J also provides information regarding the nature of that compensation.

“In summary, the Foundation believes that the great majority, if not all, of the information requested of it by the LAC has either been provided by The Citadel or is available in the above described sources. The Foundation has no intent or desire to hinder the LAC audit of The Citadel.”

Internal Audit Request Not Approved

The Council’s finding that an internal audit of payments to a public relations company in 2012 did not occur because “the respective BOV committee did not authorize the internal audit to proceed” is incorrect and does not reflect the documentation available to the auditors and the public. Minutes of the November and December 2012 Board meetings show that the Board carefully considered payments made to the contractor from the Trust, including receipt of a report from the Executive Vice President on the subject. As a result of that report and its consideration, the Board declined to direct an audit.

Student-to-Faculty Ratio

The Council’s criticism of The Citadel’s student-to-faculty ratio fails to recognize the school’s unique position as the only four-year residential public college in South Carolina. The Citadel has earned widespread praise for the effectiveness and value of its model, including but not limited to 7 consecutive years ranked as U.S. News and World Reports #1 Public University in the South offering up to a master’s degree. Cadets must live on campus all four years at The Citadel, such that the school’s staffing model is unlike any other state institution.

Also, The Citadel is the only Lowcountry public institution that offers graduate education for teachers seeking to be principals. Graduates of the Citadel program fill public school administration throughout the Lowcountry; our program is a vital pipeline to Lowcountry public schools. In other words, reducing staffing in education would be detrimental to the state public school system.

Memorandums of Understanding

The Council’s concern that The Citadel providing and maintaining network to Citadel Foundation employees “would result in the use of state resources on behalf of a nonprofit entity” overlooks fundamental facts. The Citadel Foundation purchases all of its office equipment privately, including its

phones, computers, and copiers. Although The Citadel provides PC support, network access and support, email access, and telephone support, TCF pays The Citadel a monthly fee for these services. Again, The Citadel provided documentation of TCF's payments to the auditors, but the Council did not include the information in its report.

	2012-2013	2013-2014	2014-2015	2015-2016	2016-2017
Compensation (Gross Cash Wages)					
State Appropriated Salary	\$ 147,127.23	\$ 151,200.00	\$ 154,709.27	\$ 182,287.06	\$ 195,031.00 (1)
Foundation Supplement	\$ 49,999.92	\$ 49,999.92	\$ 49,999.92	\$ 101,356.51	\$ 97,759.50
Trust Supplement	\$ 135,000.00	\$ 135,000.00	\$ 135,000.00	\$ 101,356.51	\$ 97,759.50
Car Stipend (per contract paid by Trust)	\$ 16,800.00	\$ 16,800.00	\$ 16,800.00	\$ 16,800.00	\$ 16,800.00
Insurance Stipend (per contract paid by Trust)	\$ 5,148.87	\$ 5,630.40	\$ 5,630.40	\$ 5,630.40	\$ 5,630.40
Total Gross Cash Wages - paid semi-monthly - reported on W-2 as Federal, FICA, Medicare, and State taxable wages.	\$ 354,075.82	\$ 358,630.32	\$ 362,139.59	\$ 407,430.48	\$ 412,980.40

	2012-2013	2013-2014	2014-2015	2015-2016	2016-2017
Fringes (Employer Fringes Provided to All Employees)					
FICA tax match	\$ 7,254.00	\$ 7,254.00	\$ 7,347.00	\$ 7,347.00	\$ 7,886.40
Medicare tax match	\$ 5,473.58	\$ 5,563.14	\$ 5,613.41	\$ 10,531.73	\$ 6,212.89
State or ORP retirement contribution	\$ 22,289.78	\$ 23,466.24	\$ 24,598.80	\$ 29,876.82	\$ 32,291.41
Dental Insurance for employee	\$ 140.84	\$ 140.64	\$ 140.64	\$ 140.64	\$ 151.20
Unemployment	\$ 1,099.80	\$ 1,158.17	\$ 1,168.03	\$ 1,626.01	\$ 1,238.88
Worker's Compensation	\$ 3,866.04	\$ 3,860.44	\$ 3,893.33	\$ 5,419.87	\$ 4,219.92
Total Employer Fringes required by IRS or State benefit programs - not reported on W-2 - paid to Social Security Admin, State retirement, insurance, state unemployment and accident fund.	\$ 39,923.84	\$ 41,442.63	\$ 42,761.21	\$ 54,942.07	\$ 52,000.70

	2012-2013	2013-2014	2014-2015	2015-2016	2016-2017
Benefits (Other Benefits)					
Country Club Dues and Mandatory Fees - added to taxable grosses and reported on W-2. Amount paid to General Rosa as reimbursement for Country Club expenses during calendar year. Expenses are for official entertainment	\$ 6,521.67	\$ 7,994.69	\$ 8,391.55	\$ 7,427.46	\$ 7,958.13
Personal Use of Employer Provided Automobile - added to taxable grosses and reported on W-2. Calculated using IRS annual lease value method for portion of dealership provided car used for personal use.	\$ 6,006.41	\$ 3,061.65	\$ 6,920.41	\$ 6,027.46	\$ 7,392.75
House-rental value of home	\$ 28,800.00	\$ 25,500.00	\$ 25,500.00	\$ 31,200.00	\$ 31,200.00
Utilities	\$ 8,613.55	\$ 9,188.86	\$ 9,043.95	\$ 9,713.60	\$ 9,778.60
value of house and utilities are not included in taxable income or reported on the W-2. House owned by The Citadel.					
Executive Deferred Compensation employer contribution	\$ 100,860.00	\$ 100,860.00	\$ 222,814.40	\$ 266,332.56	\$ 287,165.00
Contributions made by the employer to a 401, 403, and 457 plan					
amount paid to the 457 plan is added as taxable income to FICA and Medicare and is reported on the W-2 (\$173,685 for CY2017)					
Annual Discretionary Fund up to \$30,000 per year (per contract for official travel and official entertainment use payments made in accordance with normal Citadel procedure)	\$ 30,000.00	\$ 30,000.00	\$ 30,000.00	\$ 30,000.00	\$ 30,000.00
Total Other Benefits	\$ 180,801.63	\$ 176,585.20	\$ 302,670.31	\$ 350,701.08	\$ 353,494.48

NOTES
 (1) state salary increased 11/13/12 to \$151,200, 1/1/15 to \$157,248, 6/23/15 to \$178,600, 2/2/16 to \$187,530, and 1/5/17 to \$195,031.

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