

# State Council of Higher Education for Virginia

## ADDENDUM C

### Summary of In-State or Reduced Tuition Provisions

#### Referenced in the Guidelines for Determining Domicile and Eligibility for In-State Tuition Rates

This addendum provides a summary of the current provisions for in-state and reduced tuition rates other than domiciliary residence or the deemed as Virginia provision.

Unless otherwise noted, eligibility under these provisions:

1. Ceases at such time as any of the conditions are no longer met; however, eligibility for in-state tuition may continue via another provision or if domicile has been established.
2. Confers in-state or reduces tuition rates but does not affirm domicile as required for consideration for state financial assistance.
3. These provisions are applicable only to the family members specifically listed within the provision (individual, spouse and/or dependent children) and not to the whole family.

It is the student's responsibility to timely notify the institution of eligibility under one of these provisions and to provide supporting evidence. Institutions should refer to the relevant provisions of the Code of Virginia.

### Reduced or In-state Tuition Provisions

#### Section 01. Definitions.

The following words and terms when used in this document shall have the following differentiation and meanings, unless the context clearly indicates otherwise:

“Active duty military” and “active duty member” are not interchangeable, as the former is a subset of the latter. Examples of active duty *member* but not active duty *military* might include members of a [uniformed service](#) such as the commissioned corps of the Public Health Service, and the commissioned corps of the National Oceanic and Atmospheric Administration. Note that some tuition provisions specify active duty military while others active duty member.

"FTE" means a full-time equivalent student, a statistic derived from the student-credit hour productivity of an institution.

"Full-time employment" means employment resulting in at least an annual earned income equivalent to 50 work weeks of 40 hours at the federal minimum wage (50 X 40 X current minimum wage), the wages for which are reported for income tax purposes.

"Special arrangement contract" or "contract" means a written contract between a Virginia employer or the authorities controlling a federal installation or agency located in Virginia and a public institution of higher education for reduced tuition charges.

"Surviving spouse" means the spouse of a military service member who, was killed in action, became missing in action, or became a prisoner of war while serving as an active duty member in the Armed Forces of the United States, Reserves of the Armed Forces of the United States, or Virginia National Guard, during military operations against terrorism, on a peacekeeping mission, or as a result of a terrorist act, or in any armed conflict.

"Veteran" means an individual who has served on active duty in the Armed Forces of the United States and who was discharged or released from such service under conditions other than dishonorable (see definition of "active duty military").

"Virginia employer" means entities, including corporations, partnerships, or sole proprietorships, organized under the laws of Virginia, or having income from Virginia sources. Also included are public or nonprofit organizations authorized to operate in Virginia.

### **Section 02. In-state tuition for active duty personnel.**

Pursuant to § 23.1-506.A.3 of the Code of Virginia, certain active duty personnel are eligible for the in-state tuition rate despite not being domiciled in Virginia. To be eligible, the student must be:

1. An active duty member, an activated guard or reservist member, or a guard or reservist member mobilized or on temporary active orders for 180 days or more, and
2. Residing in Virginia. Such residence may include base, rental, or other temporary housing. Temporary deployment away from Virginia does not disqualify the member as long as a residence is maintained in Virginia.

### **Section 03. In-state tuition for veterans.**

Pursuant to § 23.1-506.A.4 of the Code of Virginia, certain veterans are eligible for the in-state tuition rate despite not being domiciled in Virginia. To be eligible, the student must:

1. Meet the definition of a "veteran" under Virginia domicile law, verified by obtaining a copy of the student's DD-214 indicating length of active service greater than zero days, a separation date, and characterization of service of other than "dishonorable," and

2. Demonstrate physical residence within the geographic territory of the Commonwealth of Virginia during the period of enrollment. The student cannot be commuting to class from outside of Virginia or be enrolled online while residing outside of the Commonwealth.

#### **Section 04. In-state tuition for surviving spouses.**

Pursuant to § 23.1-506.A.5 of the Code of Virginia, surviving spouses are eligible for the in-state tuition rate despite not being domiciled in Virginia. To be eligible, the student must meet the following criteria:

1. Be a surviving spouse as defined under Virginia law; verification of this status can be achieved by the student providing either:
  - a. Proof of payment from Office of Servicemember's Group Life Insurance (OSGU) (1-800-419-1473), or
  - b. Copy of the DD-1300 "Report of Casualty" (<http://www.archives.gov/veterans/>) and marriage certificate.
2. Demonstrate physical residence within the geographic territory of the Commonwealth of Virginia during the period of enrollment. The student cannot be commuting to class from outside of Virginia or be enrolled online while residing outside of the Commonwealth.

#### **Section 05. In-state tuition for persons employed in and paying taxes to Virginia.**

A. Pursuant to § 23.1-506.A.1 of the Code of Virginia, a student who resides outside of Virginia but who works full time in the Commonwealth may be eligible for in-state tuition provided that the student:

1. Is domiciled and maintains a physical residence in a jurisdiction other than Virginia,
2. Physically commutes on a daily or weekly basis to a worksite in Virginia from a residence outside of Virginia;
3. Was employed full time within the Commonwealth during the one-year period immediately prior to the date of alleged entitlement for which reduced tuition is sought; and
4. Paid Virginia individual income taxes on all taxable income earned in Virginia during the tax year prior to the date of alleged entitlement. (Virginia has tax reciprocity agreements with select jurisdictions; this means that an individual's income taxes earned in Virginia are returned to their home state. If the student's home state has entered into an agreement with Virginia, the student is not eligible under this provision. (As of May 2017, jurisdictions having tax reciprocity agreements with Virginia are the District of Columbia, Kentucky, Maryland, Pennsylvania, and West Virginia.)

B. Pursuant to § 23.1-506.A.2 of the Code of Virginia, a student claimed as a dependent for federal and Virginia income tax purposes who resides outside of Virginia may be eligible for in-state tuition provided that the parent claiming the student as a dependent for tax purposes:

1. Is domiciled and maintains a physical residence in a jurisdiction other than Virginia,
2. Physically commutes on a daily or weekly basis to a worksite in Virginia from a residence outside of Virginia;
3. Was employed full time within the Commonwealth during the one-year period immediately prior to the date of alleged entitlement for which reduced tuition is sought; and
4. Paid Virginia individual income taxes on all taxable income earned in Virginia during the tax year prior to the date of alleged entitlement. (Virginia has tax reciprocity agreements with select jurisdictions; this means that an individual's income taxes earned in Virginia are returned to their home state. If the student's home state has entered into an agreement with Virginia, the student is not eligible under this provision. (As of May 2017, jurisdictions having tax reciprocity agreements with Virginia are the District of Columbia, Kentucky, Maryland, Pennsylvania, and West Virginia.)

C. If the student meeting the criteria under this section subsequently moves to Virginia, the student remains eligible under this provision for the first year after moving due to having met these criteria in the previous year. Upon completion of the one year, the student should then be reviewed for domicile.

#### **Section 06. Reduced tuition under Special Arrangement Contracts.**

A. Pursuant to § 23.1-508 of the Code of Virginia, students not domiciled in Virginia but employed by a Virginia employer, including federal agencies located in Virginia, may qualify for reduced tuition rates if the employer assumes the full liability of paying the tuition of these employees to the legal limit allowable through a Special Arrangement Contract (SAC) with the institution.

B. Instruction may be provided in groups or on an individual basis on or off campus. (Group instruction is a collection of individuals enrolled for a given course.)

C. This document applies to all higher education instruction, including credit, noncredit, audit, and/or degree programs.

D. The public institution must have a current contract with the employer in order for the student to qualify for reduced tuition charges.

1. The employer must assume the liability for the total tuition charges of its employee unless limited by federal law in which case the employee is responsible for the remaining portion.
2. The tuition charged to the employer shall be at least equal to in-state tuition fees, but the public institution of higher education may specify tuition charges in the contract that are greater than in-state tuition charges but less than out-of-state charges.

E. The public institution of higher education wishing to enter into a contract shall:

1. Negotiate with the employer or federal authority a contract specifying the term of the contract (not to exceed two years) and the amount of tuition to be charged to the employer.
2. Forward the proposed contract to the Office of the Attorney General for review of legal sufficiency prior to signing.
3. Annually report all special arrangement activities to the Council.
4. Specify for any contract with federal authorities for on-campus instruction the number of FTE students to be enrolled at the contract rate.

F. Virginia employers and federal agencies or installations located in Virginia, including all branches of the U.S. military, may enter contracts and may receive in-state tuition for their employees if the employee:

1. Has a primary work-site in Virginia; meaning, the employee works on a day-to-day basis at a location physically in the Commonwealth of Virginia or
2. Is ordered to a station, military base, or office located in the Commonwealth, even if the individual's primary work-site is located outside Virginia.

G. Independent of a contract, the employee must have their domicile determined by the public institution of higher education. Employees covered by contracts also must be included in all enrollment reports according to domicile, as is any other student. The institution shall report those students who meet the domicile requirements as in-state students and those students who do not meet the domicile requirements but are eligible for in-state tuition under this section as out-of-state students.

### **Section 07. In-state tuition for other nonresidents.**

A. The Code of Virginia provides in § 23.1-506B that the governing boards of any state institution may charge in-state tuition to (i) persons enrolled in programs designated by the Council who are from states which are a party to the Southern Regional Education Compact (only those programs approved by the Commonwealth and the Southern Regional Education Board – [www.sreb.org](http://www.sreb.org), including the Academic Common Market) and provide reciprocity to Virginians; (ii) foreign nationals in foreign exchange programs approved by the state institution during the same period that an exchange student from the same state institution, who is entitled to in-state tuition pursuant to § 23.1-502 of the Code of Virginia, is attending the foreign institution; and (iii) high school or magnet school students while enrolled under a dual enrollment agreement with a Virginia community college where early college credit may be earned. In such circumstances, governing board policy should be consulted and the provisions of the cited statute reviewed.

B. Pursuant to § 23.1-506C of the Code of Virginia, the governing board of the Virginia Community College System shall charge in-state tuition to any person who lives within a 30-mile radius of a Virginia institution and is enrolled in one of the system's institutions who is domiciled in, and is entitled to in-state charges in, the institutions of higher learning in any state which is contiguous to Virginia and which has similar reciprocal provisions for persons domiciled in Virginia. As of 2018, only Tennessee has a reciprocity agreement that meets the conditions of this provision. West Virginia has individual agreements with specific colleges and programs that meet the conditions of this provision.

C. Pursuant to § 23.1-508.1 of the Code of Virginia, the governing board of the Virginia Community College System may charge reduced rate tuition and mandatory fee charges to any student who is (i) an active duty member of the Armed Forces of the United States stationed outside the Commonwealth; (ii) enrolled in a degree program at a comprehensive community college, provided that any such comprehensive community college that offers online degree programs is a member of the National Council for State Authorization Reciprocity Agreements; and (iii) enrolled in training that leads to a Military Occupational Specialty in the Army or Marine Corps, an Air Force Specialty Code, or a Navy Enlisted Classification.

D. Pursuant to § 23.1-507 of the Code of Virginia, the advisory board of the University of Virginia's College at Wise and the Board of Visitors of the University of Virginia may charge reduced tuition to certain students domiciled in Kentucky, Tennessee, and the Appalachian Region.

E. Pursuant to § 23.1-506.A.6 of the Code of Virginia, any person who met the requirements for Virginia in-state tuition immediately prior to being called to active duty in the National Guard of another state shall be eligible for in-state tuition following completion of active duty service if during active duty that person maintained one or more of the following in Virginia rather than in another state or jurisdiction:

1. A driver's license,
2. Motor vehicle registration,
3. Voter registration,
4. Employment,
5. Property ownership, or
6. Sources of financial support.

F. Pursuant to § 23.1-506.A.7 of the Code of Virginia, any member of the foreign service office who resided in the Commonwealth for at least 90 days immediately prior to receiving a foreign service assignment and who continues to be assigned overseas, and any dependents of such member are eligible for in-state tuition charges.

### **Section 08. Other reduced tuition rates, waiver of tuition and fees, and benefits.**

The Code of Virginia authorizes institutions to provide certain benefits to several categories of students, including, but not limited to:

1. Children of persons killed or disabled due to war service or who are prisoners of war or missing in action (§ 23.1-608 of the Code of Virginia);
2. Children and spouses of certain law-enforcement officers, correctional and jail personnel, sheriffs, members of the Virginia National Guard, fire fighters, and members of rescue squads who died in the line of duty (§ 23.1-609 of the Code of Virginia);
3. Certain foreign exchange students (§ 23.1-611 of the Code of Virginia);
4. Certain National Guard members (§ 23.1-610 of the Code of Virginia);
5. Cooperating teachers (§ 23.1-607 of the Code of Virginia);
6. Students receiving unfunded scholarships (§ 23.1-612 of the Code of Virginia);
7. Senior citizens under the Senior Citizen's Higher Education Act (§ 23.1-639 of the Code of Virginia);
8. Certain victims of human trafficking; (§ 23.1-506 of the Code of Virginia); and
9. Certain foreign service officers (§ 23.1-506 of the Code of Virginia)

## **Section 09. Active duty member paying taxes for 10 years**

Pursuant to the Code of Virginia, § 23.1-506.8, certain children of an active duty member or veteran who claims Virginia as his home state and filed Virginia tax returns for at least 10 years during active duty service shall be eligible for in-state tuition under the following conditions:

### I. Eligible student:

#### A. Any child:

1. Biological, Adopted, Step and/or Foster; see definition under Title 37 U.S. Code § 401.
2. Does not include the spouse.

#### B. Whose military parent:

1. Is either:
  - a) An active duty member, or
  - b) Veteran.
2. While on active duty, claimed Virginia as the home of record, and
3. For at least 10 years during active duty service, filed Virginia state tax returns.

### II. State taxes:

- A. Filed Virginia state income taxes for at least 10 years during active duty service.
- B. There is no requirement that the 10 years of filing were continuous or that filing is current.
- C. There is no restriction on when state taxes were filed, except that filing must have occurred while on active duty.
- D. The review is on military income only. Non-military income is not considered.
- E. State tax returns must have been filed as a Virginia legal resident.

### III. Verification:

- A. Proof of current (military orders) or prior active duty status (DD-214).
- B. Proof of having Virginia as home of record during active service.

### IV. Administration

- A. This provision provides access to in-state tuition but not access to state financial aid.
- B. Proof of Virginia residency or physical presence is not required for this provision.

## **Section 10. Refugees and Special Immigrant Visa**

Pursuant to the Code of Virginia, § 23.1-506.9, certain students admitted as a refugee or received a Special Immigrant Visa are eligible for in-state tuition under the following conditions

- I. Eligibility criteria: The student must demonstrate:
  - A. A current refugee status, or
  - B. A current special immigrant visa status:
    1. Section 1244 of PL 110-181 refers to certain Iraqis.
    2. Section 1059 of PL 109-163 refers to certain translators.
    3. Section 602 of PL 111-8, as amended, refers to certain Afghan nationals.
    4. As evidenced by a green card or special immigrant visa stamped with one of the following codes:
      - a) SI1: Special immigrant interpreters who are nationals of Iraq or Afghanistan, new arrivals.
      - b) SI6: Special immigrant interpreters who are nationals of Iraq or Afghanistan, adjustments.
      - c) SI2: Spouses of SI1 or SI6, new arrivals.
      - d) SI7: Spouses of SI1 or SI6, adjustments.
      - e) SI3: Children of SI1 or SI6, new arrivals.
      - f) SI8: Children of SI1 or SI6, adjustments.
  - C. Such individual was admitted into the United States within the last two calendar years.
    1. If the individual is applying for the fall of 2020, the individual must have been admitted no earlier than January 1, 2018 (the “previous two calendar years” are 2019 and 2018).
    2. If the individual was admitted earlier than two calendar years prior to the year of enrollment, the individual is no longer eligible under this provision.
  - D. Initial and continued residence is in Virginia.
    2. There is no minimum time for residing in Virginia under this provision. A student meeting the requirements may be eligible immediately.
    3. An individual whose arrival in the United States was in another state while ultimately in transit to Virginia may be eligible.
    4. An individual settling into another state but then voluntarily transferring to Virginia is not eligible.
- II. Administration:
  - A. Eligibility continues as long as the student:
    1. Is enrolled within the two-year window,
    2. Retains the required Refugee or Special Immigrant Visa status, and
    3. Continues to reside in Virginia.
  - B. Once no longer eligible under this provision:

1. Or sooner, if able, the individual may be reviewed under the standard domicile review process. A student found eligible under this provision should be encouraged to establish domicile in Virginia as soon as practical and not wait for the two-year window to expire.
  2. If the student is a dependent student and the parents are not eligible for domicile (due to legal status or currently residing in another country), the institution may consider whether the student is independent of the parents or review the domicile of the student even as a dependent student.
  3. If the student is otherwise unable to demonstrate domicile or meet the requirements of another provision, the student must be assigned the out-of-state tuition rate.
- C. This provision provides access to in-state tuition but not access to state financial aid.

### **Section 11: Tuition Equity provision for high school completers**

Pursuant to the Code of Virginia, § 23.1-505.1, students must be enrolled at least two years within a Virginia high school, graduate from a Virginia high school and the (i) parent, guardian or the person standing in loco parentis or (ii) student, if independent, must have filed state income taxes for at least two years.

- I. High school enrollment:
  - A. High school means the freshmen (grade 9), sophomore (grade 10), junior (grade 11) and senior (grade 12) years. School attendance in lower grade levels does not count toward the requirement.
  - B. Recognized Virginia high school means:
    1. A Virginia public school,
    2. A Virginia private school,
    3. Enrollment in a home school curriculum as recognized by the local Virginia public school district superintendent, or
    4. Enrollment into a Virginia comprehensive community college as part of a recognized dual enrollment program with a Virginia public or private high school.
  - C. Two-year enrollment requirement.
    1. The student must demonstrate enrollment in a Virginia high school (as described in section B above) or a combination of Virginia high schools for two full years prior to the date of initial enrollment in a Virginia public college or university.
    2. The two years of enrollment need not be immediately prior to enrollment into a public college or university or in successive years and may include partial years that combine for an equivalency of two full years. Examples:
      - ✓ Student began enrollment as of first day of classes in fall 2017 and maintained enrollment through graduation in May 2019. The student completed two full years: 2017-18 and 2018-19. The student has met the requirement.
      - ✓ Student began enrollment as of January 2017 and maintained enrollment in any Virginia school through December 2018. The student completed two full

years: half year of January to May 2017, full year of 2017-18, and additional half year August to December 2018. The student has met the requirement.

- ✓ Student completed grade 9 in 2015-16 in Virginia and then moved out of state. Student returned to complete grade 12 in 2018-19. Student completed two full years of high school in Virginia. The student has met the requirement.
  - ✓ Student began enrollment in October 2017 and maintained enrollment through May 2019. The student was enrolled for less than two full years and does not meet the requirement.
3. Proof of enrollment may be verified by either an official copy of a school transcript, letter from high school showing dates of attendance, or, in the case of a home school student, verification from the school district office that the letter of intent has been filed for each period of enrollment. For dual enrollment, a verification from the high school that such enrollment counted toward completing high school requirements.

## II. High school completion:

### A. Completion timeframe requirements:

1. Completion of high school either by graduation, passing an approved general equivalency examination or completion of home school must have occurred on or after July 1, 2008. A student who completes such requirements prior to July 1, 2008, is not covered by this provision.
2. Completion of high school need not have been in the year immediately prior to enrollment in higher education.

### B. Completion by high school graduation:

1. A student fulfilling the requirement through graduation must have graduated from a Virginia public high school or private high school as described above.
2. A student who graduated from a non-Virginia high school is not covered by this provision.

### C. Completion by passing an equivalency examination:

1. A student fulfilling the requirement through passing a general equivalency exam must have passed an examination approved by the Virginia Secretary of Education.
2. A student who completed an examination not approved by the Virginia Secretary of Education is not covered by this provision.

### D. Completion by home school:

1. A student fulfilling the requirement by completing home school instruction must declare completion at the conclusion of a school year in which a letter of intent has been filed with the Virginia local school district.
2. A student completing their high school while home schooled in another state for their final year are not covered by this provision.

### III. Filing state taxes

- A. Individual reviewed for filing a state income tax return:
  - 1. For an independent student or emancipated minor, the institution would review the tax filings of the student. An independent student includes a foster child, ward of the court or one who otherwise meets the definition of “independent student” under the Code of Virginia, § 23.1-500.
  - 2. For a dependent student, it is presumed that the person responsible for meeting the tax filing requirement is:
    - a) The supporting parent: biological, adoptive or step, or
    - b) The supporting individual granted legal guardianship.
  - 3. Person standing in loco parentis:
    - a) The institution may verify the person standing in loco parentis as defined by the adult providing the primary financial support within the household in which the student resides if:
      - 1) The parents are:
        - (a) deceased,
        - (b) whereabouts unknown,
        - (c) medically incapacitated,
        - (d) incarcerated,
        - (e) estranged (as verified by a third-party professional), or
        - (f) not in the United States.
      - 2) There is no current formal court-recognized legal guardianship, or
      - 3) The student is not a foster child or ward of the court but was formally directed into a household by a federal or state court or an agent of the Virginia department of social services.
    - b) For purposes of verifying filing of state income taxes, the person standing in loco parentis cannot be an organization, agency or institution. In such cases, the student’s tax filing is reviewed.
  - 4. The parent, legal guardian or person standing in loco parentis not providing the primary financial support may be used if that individual has met the income threshold and has filed Virginia state income taxes.
  - 5. If the parents, legal guardians or persons standing in loco parentis have not filed Virginia income taxes and do not qualify for the filing exemption, the dependent student is not eligible.
  - 6. If a dependent student has no parent, legal guardian or person standing in loco parentis, as verified by a third-party professional, the institution should consider whether to treat the student as an independent student.
  - 7. If within the two tax years under review, the student is dependent for one year and independent for the other, the institution will verify the tax filing for the appropriate parent, legal guardian or person standing in loco parentis for one year and the independent student for the second year.
- B. Filing of state income taxes:
  - 1. Tax years to be reviewed:
    - a) For a student already enrolled at the institution, the institution will verify the two years of filing state income taxes immediately prior to when the student uses the provision.

- b) For a student beginning enrollment, the institution will verify the two years immediately prior to the student's initial enrollment with the institution.
  - 2. Once verified, the institution need not annually review tax filings as long as the student remains continuously enrolled.
  - 3. If the student breaks enrollment, the student must be reviewed again upon reenrollment in the institution.
  - 4. Each institution should conduct its own verification of whether the student meets the eligibility criteria.
  - 5. If the individual did not file taxes on-time for the tax year under review, eligibility may still be obtained by providing evidence that the individual has filed a late tax form, regardless of how much time has since expired.
- C. Exemptions for filing taxes:
  - 1. State taxation exemptions:
    - a) \$11,950 for an individual single or married filing separately, or current threshold as updated.
    - b) \$23,900 for married filing jointly, or current threshold as updated.
    - c) Income of an individual claiming an exemption from filing may be verified by collecting one or more of the following: a federal tax form, W2s, bank statements, pay stubs, receipt of public assistance and federal verification letter of non-filing of federal taxes.
    - d) The tax filing exemption may be granted only:
      - 1) If both married partners or spouses have individually or jointly not met the earnings threshold for filing state income taxes, or
      - 2) If in a single-parent household, the individual has not met the earnings threshold.
      - 3) If an independent student has not met the earnings threshold.
  - 2. Income earned in another state:
    - a) An individual with taxable earnings in another state cannot claim an exemption based on the income not having been earned in the Commonwealth.
    - b) If the parent, legal guardian or person standing in loco parentis claims not to have earned enough income to meet the Virginia filing requirement, the institution should verify that the person is residing in Virginia and not residing, working and filing taxes in another state.
    - c) If the parent, legal guardian or person standing in loco parentis is out-of-state, whether meeting the earnings threshold or not, and the student cannot meet the definition of an independent student, the student is not eligible.
  - 3. Federal exemptions: An individual not required to pay state taxes due to a current valid federal treaty retain eligibility under this provision. The burden of proof falls on the individual to demonstrate eligibility for such exemption, including verification that the eligible immigration status is current and valid and that an existing treaty exempts such individual from taxation in the United States.

IV. Legal status:

- A. Eligibility is not dependent upon a student's citizenship or immigration status, or the lack thereof, except:
    - 1. An individual with any variation of the following current valid visas as of the first day of enrollment is not eligible:
      - a) F: student, also spouse and minor children,
      - b) H3: trainee, also spouse and minor children,
      - c) J: exchange visitor, also spouse and minor children, or
      - d) M: vocational visa.
    - 2. An individual who, subsequent to enrollment, obtain a valid F, H3, J or M, visa. Such student is ineligible. For details on these visas, see: <https://www.law.cornell.edu/uscode/text/8/1101>
    - 3. An individual holding dual documentation, such as, but not limited to, holding both a Temporary Protective Status (or other eligible visa or status) and an ineligible visa under section 1 above. Such student is ineligible.
  - B. An individual with a Receipt Notice for I-485 Application for Permanent Residency is no longer held to the restrictions of their prior visa status and so would be eligible.
  - C. A student that is undocumented, has an expired visa or otherwise does not have a current valid visa or status providing legal presence is eligible for this provision.
  - D. The immigration or citizenship status of the parent, legal guardian or person standing in loco parentis is immaterial and not restricted. It is not necessary for the institution to inquire, store or report this information.
- V. Protection of student information:
- A. Institutions should gather and retain only the minimum information needed to verify eligibility under this provision.
  - B. Information gathered under this provision:
    - 1. Is to be used solely for determining eligibility for in-state tuition under this provision.
    - 2. May not be made available to any other person, including employees of the institution, other than the student and institutional staff responsible for administration of this provision unless otherwise required by law.
    - 3. Should not be made available per any external subpoena or FOIA without first being reported to institutional counsel.
- VI. Administrative guidance:
- A. Institutions should incorporate a stand-alone application for this provision.
  - B. The student should be provided an opportunity to choose which provision under which to be reviewed and not required to complete the domicile review process prior to consideration under this provision. However, the student should be made aware that access to state financial aid is only possible through a domicile determination.

- C. The student is not required to provide a reason for seeking eligibility for in-state tuition under this provision rather than the domicile review process.
- D. The law is effective July 1, 2020, and is applicable to all new students enrolling for terms beginning on or after July 1, 2020, as well as all current or previously enrolled students. This provision does not require or permit any retroactive adjustment from out-of-state to in-state tuition for any term beginning prior to July 1, 2020.
- E. This provision provides access to in-state tuition if the student meets the eligibility criteria but does not provide access to state financial aid.
- F. Circumstances not contemplated or covered by this guidance may be addressed by institutional legal counsel.
- G. Institutions shall administer this provision so that individual determinations are based on the record, consistent and not arbitrary, capricious, or otherwise contrary to law.