SECTION VI

PART B IN-STATE TUITION CLASSIFICATION

1.00 Authority

Commission authority to establish tuition classification policies is given in 23-1-105(5), C.R.S.: The Commission, after consultation with the governing boards of institutions, shall establish policies for the public system of higher education for determining student residency status for tuition classification purposes within statutory guidelines in Article 7 of this title.

2.00 Institutions to Whom the Policy Applies

These policies shall apply to state-supported institutions of higher education, including, but not limited to, all postsecondary institutions supported in whole or part by state funds, and including junior colleges and community colleges, local district colleges, and area vocational schools. Those private and proprietary schools that have applied and been approved for participation in Colorado student financial aid programs shall use these policies to determine in-state tuition classification for purposes related to such student aid programs, except that military personnel who qualify under 1.10 shall not be considered in-state students for purposes of 23-3.3-101 et. seq. C.R.S. and 23-3.5-10.2 et. seq. C.R.S. until they meet the one year domicile requirement.

3.00 Current Legislation

The Colorado tuition classification law is contained in 23-7-101 to 107 of the Colorado Revised Statutes.

4.00 General Policies

Institutions are to make information available to interested parties regarding the basic criteria and documentation considered by the institution in making tuition classification decisions. Such criteria and documentation should include, but are not necessarily limited to, information contained in these policies. All tuition classification decisions are the responsibility of each institution based on its staff assessment of pertinent data.

4.01 Registering Authority - the individual designated at each campus to have primary authority for making tuition classification decisions.

4.02 Timely - defined by each institution as the reasonable period of time, no more than 30 days, in which to produce clear and convincing evidence regarding the petition for in-state tuition classification.

4.03 Date of Registration - Shall be defined by the institution but shall not be later than the first day of classes for which domiciliary classification is claimed.

4.04 Petition - the formal request by a student or prospective student to be considered a Colorado resident for purposes of in-state tuition classification. (Commission staff will provide a sample petition which institutions may choose to use).

4.05 Petitioner - the individual seeking to prove Colorado domicile for purposes of paying in-state tuition.

4.06 Member of the Armed Forces - An active duty member of the U.S. Armed Forces, as specified by federal law, including U.S. Army, Navy, Air Force, Marine Corps, Coast Guard, or other such service.

4.07 Dependent of Member of the Armed Forces-the individuals recognized by the petitioner's branch of the U.S. Armed Forces as legal dependents.

4.08 Appeals to initial decisions of the Registering Authority

Each institution is to have in place a process whereby a decision of the registering authority may be appealed. Such process should include, at a minimum, an opportunity for the petition and supporting documentation to be presented to a panel of institutional or governing board representatives for review and resolution. The decision of the institution's appeals panel will be final.

The petitioner is to be notified of the decision made by the appeals panel and any reasons why the petition was denied.

4.09 Emancipation of Minors

4.09.01 At the age of twenty-two, an unemancipated, unmarried student whose parents are not Colorado residents becomes emancipated and eligible to establish his own domicile. Thus, the 12 continuous months of residence, required as a part of domicile establishment, begins on the student's twenty-second birthday. Assuming the student has taken other legally required steps to establish permanent ties with Colorado, in-state status may be achieved on the twenty-third birthday.

4.09.02 A student under the age of twenty-two whose parents are not Colorado residents will automatically be emancipated upon legal marriage. In such cases, the date of the marriage is the date of emancipation and the date on which the 12-month residency period begins.

4.09.03 An unmarried individual under the age of twenty-two is considered to have residency of his parents unless the parents have emancipated the minor by surrendering the right and responsibility to support him. There is no specific amount defined as "support." In determining whether a minor has been emancipated, an institution must ascertain that parents have not only surrendered

care, custody, and control, but have also not made provision for either substantial or regular support of the student.

4.09.04 Reversal of emancipation can occur if the emancipation was caused by circumstances other than marriage. Evidence that parents have resumed or provided for support of the minor would support a decision of reversal of emancipation.

4.09.05 If a minor is emancipated less than one year before his twenty-second birthday, the date of emancipation must be used to determine the point at which domicile was established.

4.10 Military Personnel

4.10.01 Upon action of the governing board to grant in-state tuition classification under the provisions of 23-7-103(1)(c)(II) as general policy, the institutional registering authority may determine active duty members of the U.S. Armed Forces, and their dependents, eligible for in-state tuition if the petitioner produces satisfactory documentation to show that he/she is moving to or residing in Colorado on a permanent change-of-station status as certified by the appropriate military official.

4.10.02 **23-7-103(1)(c)(I) allows that a person who is a dependent of a military person on active duty shall not lose the dependent's in-state tuition status if the member is transferred outside of Colorado. To qualify to receive in-state tuition, the dependent of a military member who was on active duty in Colorado during the dependent's last year of high school must attend a public institution of higher education in Colorado within twelve months after graduating from a high school in Colorado. The dependent is not eligible for in-state tuition under the provision if the person has attended an institution of higher education outside of Colorado. If such dependent was continuously enrolled as an undergraduate or graduate student after qualifying for in-state tuition, the dependent will not lose in-state tuition status if the member of the military is transferred outside of Colorado.**

4.10.03 23-7-106 allows any member of the military forces of Canada stationed in Colorado, or the dependent of any such member, to receive in-state tuition status at any institution of higher education in Colorado. No member of the Canadian military shall be considered to be stationed in Colorado unless a full-time principal residence is maintained.

4.11 Immigrant and Non-Immigrant Aliens

All petitions submitted by petitioners who are not U.S. citizens can be classified in two categories:

Immigrant alien
Non-immigrant aliens

4.11.01 Immigrant Aliens

An individual who has received the Resident Alien Card (green card) is eligible to petition for in-state status under the same provisions as citizens. Similarly, a petitioner who has not yet received the Resident Alien Card, but has filed the Application for Adjustment of Status may petition for in-state tuition classification. For such cases, when the resident Alien Card has not yet been received, the date of the Application for Adjustment of Status should routinely be used as the date on which the petitioner was legally able to establish domicile in Colorado.

Using the date of the Application of Adjustment of Status recognizes the intent of the individual to establish a permanent home.

4.11.02 Non-Immigrant Aliens

Certain non-immigrant aliens may be legally incapable of establishing domicile. When making a tuition classification decision in response to a petition submitted by a non-immigrant, the following guidelines should be used to determine the student's ability to establish Colorado domicile.

Visa categories not capable of establishing Colorado domicile:

F-1 Student in academic or language program.
F-2 Spouse or child of student in academic or language program
H-3 Trainee.
M-1 Student in vocational or other recognized nonacademic institution.
M-2 Spouse or child of student in vocational or other recognized nonacademic institution.

Visa categories not capable of establishing Colorado domicile if the visa holder is in Colorado primarily to learn:

H-4 If the visa holder is a spouse or child of H-3 (as opposed to H-1 or H-2).
J-1 Exchange visitor.
J-2 Spouse or child of exchange visitor.

All other visa categories are capable of establishing Colorado domicile.

4.12 Minor Whose Parents Have Left Colorado

An unemancipated minor remaining in Colorado when his Colorado-domiciled parents or guardians leave the state may be eligible for in-state tuition classification under the provisions of 23-7-103,(1)(m)(II), C.R.S. If so, such in-state status shall be maintained upon transfer from one Colorado postsecondary education institution to another as long as the student remains enrolled in courses leading to degree or certificate.

For purposes of the Colorado tuition classification law, a matriculated student shall have, at a minimum:

X Applied and been accepted for admission to the institution (if applicable),
X Registered for classes, and
X Enrolled in registered classes (as defined in CCHE policy V-B-2.04).

4.13 Olympic Athletes

Legislation passed by the 1986 session of the Colorado General Assembly allows Olympic athletes to attend any state-supported institution of higher education at in-state tuition rates. They are not required to file a petition to obtain such status, but shall be required to complete such documents as the institution deems necessary to verify their status as an athlete in the Olympic training program.