

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.

4.00.1 Verification of Lawful Presence

Colorado law requires state agencies and institutions of higher education to verify the lawful presence in the United States of all persons 18 years of age or older for receipt of public benefits by requiring the applicant to produce one of the following forms of identification:

- (1) Valid Colorado Driver's License or a Colorado Identification Card
- (2) U.S. Military Card or a Military Dependent's Identification Card
- (3) U.S. Coast Guard Merchant Mariner Card
- (4) Native American Tribal Document

An applicant also must execute an affidavit stating that he or she is a U.S. citizen or legal permanent resident; or that he or she is otherwise lawfully present in the U.S. pursuant to federal law. (C.R.S. §24-76.5-103(4)).

All applicants for state-funded financial aid must meet the identification requirements of C.R.S. §24-76.5-103(4) or the emergency rules promulgated by the Department of Revenue which shall expire on March 1, 2007. A copy of the emergency rules issued by the Department of Revenue is attached hereto and hereby incorporated as if fully set forth herein. The emergency rules provide for additional forms of identification that may be accepted by institutions to verify lawful presence. Institutions must satisfy the verification requirements of C.R.S. §24-76.5-103(4) in a manner consistent with statutory requirements, Attorney General guidance and CCHE policy. CCHE shall audit institutions to ensure compliance.

An applicant may also meet the requirements of this statute for state-funded financial aid through any waivers granted by the Department of Revenue as provided for in the emergency rules promulgated by the Department of Revenue which shall expire on March 1, 2007.

- 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.

Emergency Rules for Evidence of Lawful Presence

1. Definitions

- 1.1. Applicant—Any natural person eighteen years of age or older seeking non-exempt Public Benefits for themselves as set forth in §24-76.5-102 and 103 C.R.S.
- 1.2. Benefit Agency—Agency of the state or of any political subdivision of the state of Colorado providing Public Benefits as defined in §24-76.5-102 C.R.S.
- 1.3. Department—The Colorado Department of Revenue.
- 1.4. Director—The Executive Director of the Colorado Department of Revenue.
- 1.5. Electronic Identification Indicator—An entry, valid until March 1, 2007, located in the Department's Driver's License System database that indicates either Applicant's lawful presence or insufficient evidence of lawful presence.
- 1.6. Immigration Documents—Any of the following:
 - 1.6.1. Unexpired Foreign Passport bearing an unexpired "Processed for I-551" stamp or with an attached unexpired "Temporary I-551" visa.
 - 1.6.2. Unexpired Foreign Passport accompanied by an "I-94" indicating a specific future "until" date.
 - 1.6.3. "I-94" with refugee or asylum status.
 - 1.6.4. Unexpired "Resident Alien" card, "Permanent Resident" card, "Temporary Resident" card, or "Employment Authorization" card.
- 1.7. Request for Waiver—Request form (attached as an exhibit to these rules and incorporated herein) completed by an Applicant seeking a determination of lawful presence by the Department and resulting in an Electronic Identification Indicator. The Request for Waiver must be accompanied by all documents

that Applicant can produce to verify name and proof of lawful presence.

- 1.8. SAVE—The Systematic Alien Verification for Entitlements Program administered by the United States Citizenship and Immigration Services of the Department of Homeland Security.

2. Identification Documents

- 2.1. A first time Applicant or Applicant seeking to reapply for public benefits on or after August 1, 2006 may demonstrate lawful presence by both executing the affidavit required in §24-76.5-103(4)(b) C.R.S. and producing:
 - 2.1.1. One of the forms of identification set forth in §24-76.5-103(4)(a) C.R.S., except that for purposes of §24-76.5-103(4)(a)(1), a Valid Colorado Driver's License or Identification Card includes only a current Driver's License, Minor Driver's License, Probationary Driver's License, Commercial Driver's License, Restricted Driver's License, Instruction Permit or Identification Card;
 - 2.1.2. Alternative Identification allowed until March 1, 2007, as follows:
 - 2.1.2.1. Certificate of Applicant's birth issued by any of the United States, any county or parish of any of the United States, one of the five boroughs of New York City, the District of Columbia, or the Departments of State or Justice of the United States;
 - 2.1.2.2. Certificate verifying naturalized status Issued by an authorized agency of the United States bearing Applicant's intact photograph impressed with the raised embossed seal of the issuing agency;
 - 2.1.2.3. Certificate verifying United States citizenship issued by an authorized agency of the United States bearing Applicant's intact photograph impressed with the raised embossed seal of the issuing agency;

- 2.1.2.4. Order of Applicant's Adoption, including Applicant's date of birth, bearing the seal or certification of the court of any political subdivision or territory of the United States;
- 2.1.2.5. Valid Driver's License or Identification Card bearing Applicant's photograph issued by one of the following: Alabama, Arizona, Arkansas, California, Connecticut, Delaware, District of Columbia, Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Minnesota, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Virginia, West Virginia, and Wyoming;
- 2.1.2.6. Valid Immigration Documents demonstrating Lawful Presence and verified through SAVE.

3. Waiver Process

- 3.1. A first time Applicant or Applicant seeking to reapply for public benefits on or after August 1, 2006 and before March 1, 2007, who
 - a. due to chronic health or medical condition, lacks sufficient mobility to appear in person to apply for a Colorado Driver's License or Identification Card,
 - b. due to lack of a permanent physical address in Colorado, does not qualify for a Colorado Driver's License or Identification Card, or
 - c. may lack sufficient documentation to receive a Colorado Driver's License or Identification Cardmay demonstrate lawful presence by both executing the affidavit required in §24-76.5-103(4)(b) C.R.S. and being verified with an Electronic Identification Indicator.

- 3.1.1. Upon receipt of a Request for Waiver together with all supporting documentation The Department will establish the Electronic Identification Indicator. Until March 1, 2007, any Benefit Agency may rely on electronic verification of lawful presence from the Department evidenced by the Electronic Identification Indicator.
- 3.1.2. The Benefit Agency is responsible for verifying that their Applicant is the same individual indicated as being lawfully present with an Electronic Identification Indicator.
- 3.2. A state agency may apply to the director for a waiver for a specific program under which the applicant's lawful presence will be verified through a related state or federal program contemporaneous to the current application. Likewise, a local agency may request a waiver from the director for a specific program under which the applicant's lawful presence will be verified through a related local, state or federal program contemporaneous to the current application.

4. Required Advisement

- 4.1. A Benefit Agency awarding benefits based on Alternative Identification set forth in 2.1.2. above or the Electronic Identification Indicator must advise Applicant of the following:
 - 4.1.1. Under current Colorado law, in order to receive benefits beyond March 1, 2007, Applicant must produce one of the forms of identification set forth in §24-76.5-103(4)(a) C.R.S.;
 - 4.1.2. As soon as possible, Applicant should begin working diligently to secure the appropriate identification document; and
 - 4.1.3. A determination of eligibility for benefits based on an Alternative Identification or the Electronic Identification Indicator in no way constitutes a representation that Applicant has provided sufficient information or documentation to support the issuance of one of the forms of identification set forth in §24-76.5-103(4)(a) C.R.S.



REQUEST FOR WAIVER - RESTRICTIONS ON PUBLIC BENEFITS

APPLICANT				
Current Name - Last	First	Middle		
Full Maiden Name, if applicable				
Birth Date	Gender	Social Security Number		
Current Residence Address - Street	City	State	ZIP Code	
U. S. Citizen? Yes <input type="checkbox"/> No <input type="checkbox"/>		If No, Lawfully Present? Yes <input type="checkbox"/> No <input type="checkbox"/>		
IF AN APPLICANT IS UNABLE TO PRODUCE THE DOCUMENTATION NECESSARY TO OBTAIN A COLORADO DRIVER'S LICENSE OR IDENTIFICATION CARD, THE APPLICANT SHALL PROVIDE ANY AVAILABLE DOCUMENTS THAT VERIFY NAME AND PROOF OF LAWFUL PRESENCE.				
REPRESENTATIVE DESIGNATION (IF APPLICABLE)				
APPLICANTS LACKING SUFFICIENT MENTAL OR PHYSICAL ABILITY TO EITHER SIGN THIS FORM OR APPEAR IN PERSON TO SUBMIT THE FORM MAY ACT THROUGH A DESIGNATED REPRESENTATIVE.				
DESIGNATED REPRESENTATIVE				
Name - Last	First	Middle		
Form of Identification		Identification Number		
Applicant's specific reason for needing a designated representative				
APPLICANT OR APPLICANT'S DESIGNATED REPRESENTATIVE MUST SIGN BELOW				
Signature			Date	

THIS FORM AND ALL SUPPORTING DOCUMENTATION MUST BE PRESENTED IN PERSON AT ONE OF THE FOLLOWING DRIVER'S LICENSE OFFICES:

Alamosa	Craig	Hot Sulphur Springs	Meeker	Steamboat Springs
Denver (Athmar)	Delta	Grand Junction	Montrose	Sterling
Aurora	Durango	Greeley	Northglenn	Trinidad
Boulder	Ft. Collins	Gunnison	Parker	Walsenburg
Canon City	Ft. Morgan	La Junta	Pueblo	
Colorado Springs	Frisco	Lamar	Rangely	
Cortez	Glenwood Springs	Longmont	Salida	