

In-State Tuition for Military Dependents

This document serves as general guidance to the institutions until the Domicile Guidelines are revised and promulgated. This reflects SCHEV's current interpretation of the statute and may be amended as unusual circumstances are addressed and the guidance is implemented.

During the 2008 session of the General Assembly, the tuition provision for military dependents was amended. Below is the text of the Code of Virginia reflecting the provisions effective as of July 1, 2008.

§ 23-7.4

[quote]

E. Notwithstanding any other provision of law, all dependents, as defined by 37 U.S.C. § 401, of active duty military personnel, or activated or temporarily mobilized reservists or guard members, assigned to a permanent duty station or workplace geographically located in Virginia, or in a state contiguous to Virginia or the District of Columbia, who reside in Virginia shall be deemed to be domiciled in Virginia for purposes of eligibility for in-state tuition and shall be eligible to receive in-state tuition in Virginia in accordance with this section. All such dependents shall be afforded the same educational benefits as any other individual receiving in-state tuition pursuant to this section. Such benefits and in-state tuition status shall continue so long as they are continuously enrolled in an institution of higher education in Virginia or are transferring between Virginia institutions of higher education or from an undergraduate degree program to a graduate degree program, regardless of any change of duty station or residence of the military service member.

For the purpose of this subsection:

"Date of alleged entitlement" means the date of admission or acceptance for dependents currently residing in Virginia or the final add/drop date for dependents of members newly transferred to Virginia.

"Temporarily mobilized" means activated for service for six months or more.

[end quote]

Guidance:

1. **Effective Date** – The benefits of this legislation are not retroactive to terms beginning prior to their effective date. While the legislation is not retroactive to terms beginning prior to July 1 of their respective years, all provisions in the legislation – including new definition of “date of alleged entitlement” – are in full force for the affected term.
2. **Beneficiary** - Does not affect the review process for the active-duty military member; applies only to the dependents of an active-duty military member or activated or temporarily mobilized reservist or guard member. For purposes of this legislation, the definition of “dependent” shall mean a “military dependent” under 37 U.S.C. 401. http://www.law.cornell.edu/uscode/37/usc_sec_37_0000401----000-.html
3. **Military Assignment** - Affects only those families whose active duty military member or activated or temporarily mobilized reservist or guard member is assigned to a permanent duty station within Virginia or a state contiguous to Virginia or Washington D.C. Temporary assignments do not qualify nor do assignments to a base located outside of the above listed areas.
4. **Residence** - The military member and dependent must have a physical residence within Virginia. In addition to personal permanent housing, such residence may include base, rental, or other temporary housing. Temporary deployment (i.e. to overseas station) does not disqualify the family members as long as a residence is maintained in Virginia. Military assigned and voluntary housing located outside of Virginia do not qualify.

5. **Benefits** - The law says "...shall be afforded the same educational benefits as any other individual..." This includes state financial aid and treatment as in-state for admissions and all other reporting purposes.
6. **Students Affected** - The law is applicable to all who meet the eligibility requirements, meaning that it is not restricted to new enrollments. Continuing students for the fall 2008 term may be reviewed for eligibility. The Code does not require that the eligibility conditions pre-exist for any set amount of time, only that the conditions exist as of the "date of alleged entitlement". The reclassification process is available to a student initially classified as out-of-state but who otherwise meets the eligibility requirements in a subsequent term.
7. **Institutions Affected** – The provision is an alternate path to receive benefits reserved for Virginia domiciles; therefore, any educational benefit reserved for Virginia domiciles under §23-7.4 of the Code of Virginia is available to students eligible under this military family provision including instate tuition at Virginia public institutions and financial assistance at Virginia public and participating private non-profit institutions.
8. **Date of Alleged Entitlement** - Means "the date of admission or acceptance for dependents currently residing in Virginia or the final add/drop date for dependents of members newly transferred to Virginia." It is the intention of this language that students who meet the eligibility criteria as of the date of admission or acceptance by the institution remain eligible for the benefit regardless of whether their military parent is subsequently reassigned prior to the first day of the term. Further, students whose families transfer into Virginia after the first day of the term but prior to the end of drop/add are also eligible if they otherwise meet all eligibility criteria. In short, if the student meets the eligibility criteria during any one day of this defined period of time, the student is eligible for the benefit.
9. **Continued Eligibility** - After initial eligibility, continued eligibility is based solely upon continuous enrollment of the student, not upon the status or reassignment of the military sponsor. Continuous enrollment shall be recognized as at least one course for credit in consecutive fall – spring – fall (etc.) terms. Lack of summer enrollment does not disqualify the student. Continuous enrollment also includes moving from undergraduate to graduate degree program in consecutive (fall-to-spring or spring-to-fall) terms.
10. **Effect on Transfer Students** - Eligibility is not lost if student transfers within Virginia institutions of higher education which would include all public and private institutions which are accredited, degree-granting institutions of higher education that are formed, chartered, or established within Virginia, in consecutive fall-to-spring or spring-to-fall terms.
11. **Regaining Eligibility** - If the student breaks enrollment by missing a fall or spring term but meets the initial eligibility requirements upon re-enrollment, the student remains eligible for the benefit.
12. **Suggested Documentation** – The institution should verify that the conditions of the provision have been met. There may be a number of different documents that will accomplish this purpose but the following are suggested: A copy of the military orders verifying active duty military status or activation of reservist/guard member and permanent duty station within Virginia, a contiguous state or Washington DC; documentation verifying Virginia residence; and copy of military dependent card issued by the military.