

## **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. Since SCHEV has not been assigned specific oversight of these provisions, the institution should contact their legal counsel for specific answers to questions concerning eligibility. This addendum serves solely to provide a summary of previous guidance.

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. Does not extend to other individuals, including spouse or dependents.

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 meanings, unless the context clearly indicates otherwise:

"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 military personnel.**

Pursuant to § 23.1-506.A.3 of the Code of Virginia, certain military 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 military 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” and marriage certificate found here <http://www.archives.gov/veterans/>.
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:

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.)

## **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 (§ 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); and
7. Senior citizens under the Senior Citizen's Higher Education Act (§ 23.1-639 of the Code of Virginia).