

## **Procedures for Policy 2207**

In general, the [Code of Virginia - Title 23.1. Institutions of Higher Education](#) requires that, to be eligible for in-state tuition, an individual must demonstrate residence in Virginia and an intent to remain in Virginia indefinitely to establish domicile in Virginia. After meeting the requirements to establish domicile, a person must continue to be domiciled in Virginia for at least 12 months preceding the first day of classes for the term in which they desire to enroll. The [Code](#) provides exceptions for active duty military personnel, retired military personnel, veterans of military service, and the dependent spouses and children of such individuals who claim domicile through them.

### **1.1. Clear and Convincing Evidence Standard**

The [Code of Virginia - Title 23.1. Institutions of Higher Education](#) requires that the student seeking to become eligible for in-state tuition shall establish such eligibility by “clear and convincing evidence.” The [SCHEV Domicile Guidelines](#) describe this standard:

“Clear and convincing evidence is not as stringent a standard as proof beyond a reasonable doubt, as required in the criminal context, but is a degree of proof higher than a mere preponderance of the evidence. Clear and convincing evidence is that degree of proof that will produce a firm conviction or a firm belief as the facts sought to be established. The evidence must justify the claim both clearly and convincingly. Failure to provide “clear and convincing” evidence fails the required standard and will result in the student being classified as out-of-state.”

#### **1.1.1. Factors to Be Considered**

The [Code of Virginia - Title 23.1. Institutions of Higher Education](#) requires that the following factors, if applicable, be considered when determining domiciliary intent:

- continuous residence in Virginia for at least one year prior to the date of alleged entitlement, except in the event of the establishment and maintenance of a place of residence in another jurisdiction for the purpose of maintaining a joint household with an active duty United States military spouse;
- state to which income taxes are filed or paid;
- driver’s license;
- motor vehicle registration;

- voter registration;
- employment;
- property ownership;
- sources of financial support;
- military records;
- a written offer and acceptance of employment following graduation; and
- any other social or economic relationships with the Commonwealth and other jurisdictions.

### 1.1.2. Applying the Clear and Convincing Evidence Standard

The [SCHEV Domicile Guidelines](#) provide guidance for interpreting the [Code](#) in determining whether a person meets the test of residency and domiciliary intent. The [Guidelines](#) acknowledge that, while determining a person's place of residence can be relatively easy, ascertaining domiciliary intent can be difficult:

“Domiciliary intent is normally determined from the affirmative declaration and objective conduct of the person. Intent is necessarily a subjective element; however, a person demonstrates [their] intent through objective conduct. When evidence is conflicting, the opposing facts must be balanced against each other.”

Professional judgment may be necessary at times to make a domicile determination. The [Guidelines](#) further acknowledge that “each case presents a unique combination of factors” from which must be determined which are the core factors that clearly and convincingly demonstrate domiciliary intent. Each of the factors required to be considered in determining domiciliary intent will not carry the same weight or importance in each case. And no single factor is necessarily determinative – the evidence presented should be considered in totality. The [Guidelines](#) also allow each institution to consider other relevant factors, such as the prior determination of a student's domiciliary status by another institution, assuming no subsequent change of the facts.

As noted above, professional judgment may need to be applied when presented with the unique combination of factors that a given student, or their parent(s)/guardian(s), may present. Examples of such situations – intended to be illustrative, not all encompassing – follow.

- Determining and documenting a student's intention to stay in Virginia if the student has no taxable income and no vehicle registration or driver's license.

The student will be required to provide a variety of documentation to demonstrate domiciliary intent, such as a voter registration card,

proof of residential property ownership or lease (for the student or parent/guardian), proof of Virginia benefits (e.g., SSI, disability, child support, etc.), bills showing Virginia residency (e.g., telephone, electric, gas, cable, etc.). The Domicile Officer will use their best professional judgment to determine whether the documentation meets the “clear and convincing evidence” standard. When in doubt, the Domicile Officer will consult with the Campus Domicile Officer.

- Documenting a student’s military relationship.

Various documents are available to demonstrate a student’s military relationship. Active duty personnel and military retirees, as well as the spouses and dependents of such individuals, will have an identification card issued by the Department of Defense (DoD).

Other documents that may be presented by a military-related student include the active duty member’s Leave and Earnings Statement (LES), DD Form 2058 (State of Legal Residence Certificate), official orders identifying Virginia as the permanent duty station, a letter from the active duty member’s command indicating the date on which residency was changed to Virginia.

Veterans of the U.S. military who are not retired from military service will be required to provide a copy of their Certificate of Release or Discharge from Active Duty (DD Form 214) reflecting the characterization of discharge. Although the Virginia Department of Veterans Services issues “Veterans ID Cards,” such documents are specifically identified as not being for “official government use or identification.”

When presented with documents that they do not recognize or understand, Domicile Officers should consult with staff in the campus Veterans Affairs office or in the Center for Military and Veterans Education.

- Documenting whether a military reservist is on active duty in the semester for which a domicile decision is made.

A military reservist who is on active duty will be required to provide a copy of the official orders placing them on active duty; those orders will indicate the term of the active duty period.

- Evaluating potentially ambiguous documentation.

When presented with domicile documentation that is ambiguous, the Domicile Officer should request additional documentation sufficient to meet the “clear and convincing evidence” standard. For example, a vehicle registration dated August 21 in the current year may represent a renewal from a previous year or a new registration. The student should be asked to provide other documentation to demonstrate domicile for a period of a year before the start of the term for which the in-state tuition privilege is being sought. The student might present a transcript of their record issued by the Department of Motor Vehicles, a lease or documentation of property ownership, correspondence, such as utility bills, indicating a Virginia residence address, or other documents that corroborate the period of previous domicile.

## **1.2. Initial Domicile Determination and Notification**

The initial determination of domicile status will be made on the basis of the applicant’s responses to the Domicile Determination Form submitted as part of the Application for Admission. The retrievable record of the application that is retained in the VCCS Student Information System (SIS) is considered appropriate and sufficient documentation of the initial domicile determination.

Within 24 hours of the college’s receipt of the Application for Admission, an admission acceptance letter will be sent via electronic email to the applicant’s email address as indicated in the application. That letter will include a statement of the applicant’s in-state or out-of-state tuition status that is based on the domicile determination. One of three determinations will be made and indicated in the letter:

- eligible for in-state tuition;
- eligible for in-state tuition pending submission of documents for verification of status; or
- not eligible for in-state tuition; will be charged out-of-state tuition.

In addition, SIS will provide each applicant for admission an indication of their domicile status, including whether the status is pending a review by college staff and advice to contact the appropriate campus Admissions and Enrollment Office to determine the documentation necessary to facilitate that review and a domicile decision.

### **1.2.1. Verification of Status**

In the event that the applicant’s status is determined to be in-state pending submission of documentation, the acceptance letter will instruct the student to contact the Admissions and Enrollment Office at the TCC campus identified in the Application for Admission to determine the

document(s) necessary to substantiate their in-state tuition status. An appropriate advisory notice will be placed on the student's record in SIS.

The acceptance letter shall advise the student of the time-sensitivity of providing documentation to substantiate their in-state tuition status and that they should contact the Admissions and Enrollment Office within five workdays.

### **1.2.2. Out-of-State**

In the event that the applicant is determined to be ineligible for in-state tuition, the acceptance letter will provide instructions for filing an appeal of the initial determination or reclassification request should the applicant's circumstances change. An appropriate advisory notice will be placed on the student's record in SIS.

### **1.2.3. Military-Related Students**

In view of the special provisions afforded certain military-related students in the [Code of Virginia](#), college staff shall advise those who may be eligible for in-state tuition without a domicile decision that requesting such eligibility under the military, dependent, or veteran exception may be preferable to attempting to establish domicile. The Application for Military, Dependent, and Veteran Exception shall be used for such requests.

The Director of Military Student Support Services in the (CMVE) will obtain a daily report of applications received from individuals who have indicated a relationship with the U.S. military and been determined to be ineligible for in-state tuition. The Director will work with CMVE staff to contact and advise such applicants regarding the special provisions that may be afforded them by the Commonwealth in view of their relationship with the U.S. military.

## **1.3. Verification Process**

This process applies when an applicant is determined to be eligible for in-state tuition pending submission of documents for verification of status; it is neither an appeal of the determination nor a request for reclassification. Following the direction in the acceptance letter and advisory notice in SIS, the student should contact the Admissions and Enrollment Office in a timely manner. Admissions and Enrollment staff will review the individual's Domicile Determination Form and advise the individual of the documentation required to substantiate their eligibility for in-state tuition, using the Verification & Determination Domicile Status Form. Active duty military who are not domiciled

in Virginia and their dependents may apply for in-state tuition under the exception provided by the [Code of Virginia](#) using the Application for Military Exception. Veterans of U.S. military service who reside in Virginia may also apply for in-state tuition without regard to their domicile status under the exception provided by the [Code of Virginia](#). Such applications will be made using the Application for Military Exception. Dependents, spouses, and veterans using the Post 9/11 GI Bill ® or Montgomery GI Bill ® may also qualify for in-state tuition without regard to their domicile status under [Public Law 113-146, Section 702](#) known as The Veterans Choice Act by using the Application for Military Exception. When the student provides the required documentation, a copy of that documentation will be attached to the student's record in Perceptive Content, a student document database.

#### **1.4. Appeals Process**

A student who believes an error has been made in their domicile determination should contact the Admission and Enrollment Office within five (5) workdays of the date on which the student reasonably should have learned of the tuition status decision. The Admissions and Enrollment Office staff will review the individual's Domicile Determination Form and advise the student of the reason for the domicile determination and what forms of documentation will be necessary to establish clear and convincing evidence that a Virginia domicile decision should be made or that a military exception is appropriate. The Domicile staff will provide the student with the Domicile Appeal Form with instructions to submit the appeal within ten (10) workdays or by the day before classes start for the term in which in-state tuition is sought, whichever occurs later.

##### **1.4.1. Intermediate Review**

The Domicile Officer receiving the Domicile Appeal Form will document the date of receipt on the application form and review the package for completeness. In the event that the package is determined to be incomplete, it will be returned to the student within five (5) workdays of its receipt with instructions regarding the missing/incomplete elements and notice that the package must be returned within five (5) workdays of the students' receipt.

Within five (5) workdays of receipt of a complete appeal package, the Domicile Officer will review the appeal and its associated documents and make a determination using the "clear and convincing evidence" standard. CMVE staff – in particular, staff in the campus Veterans Affairs Office – may also be consulted regarding appeals submitted by military-related students, for example, when interpretation of a document such as military change of station orders is necessary.

The Intermediate Review decision will be communicated to the student at their VCCS e-mail account within ten (10) workdays of receipt of the complete appeal package. If the appeal is denied, the report of the Intermediate Review will be sent to the student by certified mail with a signature receipt required and returned to the college; such a report will include the Domicile Officer's rationale for denying the appeal and

instructions for advancing the appeal to the College Domicile Appeal Committee.

In the event that the Intermediate Review results in a change in tuition status, the change shall be effective the date of the first day of classes for the term for which the appeal was submitted.

A copy of the report of the Intermediate Review, the appeal package, and all associated documentation shall be retained in either paper or electronic form in the campus Domicile Appeals & Reclassification File.

#### **1.4.2. Final Administrative Review**

If the student is not satisfied with the result of the Intermediate Review, they may advance the appeal and associated documentation to the College Registrar within five (5) workdays of receiving the report of the Intermediate Review. The College Registrar will consider the appeal and render a written decision to the student within thirty (30) calendar days following receipt of the appeal.

In considering the appeal, the College Registrar will apply the “clear and convincing evidence” standard, including consulting with the Director of Military Student Support Services on appeals from military-related students.

In the event that the Final Administrative Review results in a change in tuition status, the change shall be effective the date of the first day of classes for the term for which the appeal was submitted.

In the event that the decision denies the student’s appeal, the written decision will be sent to the student by certified mail with a signature receipt required and returned to the college. The communication will advise the student of the rationale for the decision, that the decision is final, and that the student has the right to petition the circuit court for the jurisdiction in which the campus at which the appeal originated is located for a review of the decision. A petition for such a review must be filed with the circuit court within thirty (30) calendar days of receiving the written decision. Upon notification that a petition for review has been submitted to the circuit court, the college shall advise the VCCS Counsel and coordinate any response through that office.

A copy of the report of the Final Administrative Review, the appeal, and all associated documentation shall be retained in either paper or electronic form in the campus Domicile Appeals & Reclassification File.

### **1.5. Reclassification Process**

A student whose circumstances have changed since the initial determination or any subsequent appeal may request reclassification by submitting the Domicile Reclassification Request Form and any associated documentation to any campus Admissions and Enrollment Office.

The Domicile Officer receiving the Domicile Reclassification Request Form will document the date of receipt on the application form and review the package for completeness. In the event that the package is determined to be incomplete, it will be returned to the student within five (5) workdays of its receipt with instructions regarding the missing/incomplete elements.

Within five (5) workdays of receipt of a complete reclassification package, the Domicile Officer will review the request and its associated documents and make a determination using the “clear and convincing evidence” standard. If the determination will result in a change of status to in-state, the Domicile Officer will determine the effective date of the change based on the documents provided in support of the reclassification request. CMVE staff – in particular, staff in the campus Veterans Affairs Office – may also be consulted regarding appeals from military-related students, for example, when interpretation of a document such as military change of station orders is necessary.

The Domicile Officer’s decision will be communicated to the student within ten (10) workdays of receipt of the complete reclassification request. If the request is denied, the report of the Domicile Officer’s decision will include the rationale for denying the reclassification and instructions for appealing the decision.

In the event that the reclassification decision results in a change in tuition status, the change shall be effective the first day of classes for the next term following the effective date of the change. The effective date of the change may precede the current term if the documents support such decision. However, no change shall be made in the tuition status in a term prior to the term in which the complete reclassification request was received by the college.

A copy of the report of the Domicile Officer’s decision, the reclassification request package, and all associated documentation shall be retained in either paper or electronic form in the campus Domicile Appeals & Reclassification File.

## **1.6. Records Maintenance**

The Domicile Officer shall establish and maintain a Domicile Appeals & Reclassification File. The file may be retained in either paper or electronic form. For each domicile decision, the file shall contain all documents used to substantiate the decision, the rationale for the decision, and copies of any correspondence to the student regarding the decision. The file for a student shall be retained for three (3) years after the student's graduation or last attendance per the [Records Retention and Disposition Schedule](#) for college and university records promulgated by the Library of Virginia.

## **1.7. Semi-Annual Review**

In each January and July, the College Registrar will review a minimum of ten percent (10%) of decisions made in cases of pending determinations. For each decision, the review shall determine adequacy of the documentation in the Domicile Appeals & Reclassification File and the validity of the decision based on that documentation. The results of such reviews shall be reported to the Vice President for Student Affairs.

When the semi-annual review identifies inconsistencies in the application of the law and the SCHEV guidelines, the College Registrar shall develop and provide training to Domicile Officers to assist them in making consistent decisions across the college.

## **1.8. Training**

The College Registrar shall develop and provide training to all Domicile Officers. Such training will be provided at least annually. Since changes in domicile standards typically arise out of legislation approved by the Virginia General Assembly and the Governor and become effective at the start of the next fiscal year, annual training will be conducted prior to July 1 of each year, or as soon thereafter as practicable based on SCHEV's promulgation of revised guidelines.