

No. 2207 Rev.: 2

Date: August 4, 2016

Policies and Procedures

Subject: Domicile and In-State Tuition Determinations and Appeals 2.5.2. College Domicile Appeal Committee4 4.3. Verification Process 9

6.	References	13
7.	Review Periodicity and Responsibility	14
8.	Effective Date and Approval	14
9.	Review and Revision History	14

1. Purpose

This policy addresses the determination of a student's domicile and provides for an appeal process of such determinations. The determination of domicile will, in most cases, result in a student paying either in-state or out-of-state tuition and will determine eligibility for state financial aid. Additionally, this policy addresses eligibility for in-state tuition that is not based on a domicile determination. This policy is consistent with the Code of Virginia, the interpretive guidelines published by the State Council of Higher Education for Virginia (SCHEV), and the policy of the Virginia Community College System (VCCS).

Determination of domicile frequently requires using professional judgment to balance the letter and intent of the law with the interests of the student. This policy is not intended to address every potential situation that may occur. Rather, it is intended to provide a framework for determination of domicile in general and for addressing the unusual situations in a consistent manner across the college's four campuses.

2. Policy

2.1. Domicile Determinations

Tidewater Community College (TCC) shall make determinations of domicile and in-state tuition eligibility in accordance with the provisions of the <u>Code of Virginia</u> § 23-7.4 and the interpretive guidelines promulgated by the State Council for Higher Education in Virginia (SCHEV). The initial determination shall be based on the student's responses to the Domicile Determination Form section of the VCCS Application for Admission. In some cases, the student may be required to present certain documentation in order to verify a pending domicile/in-state tuition determination.

The student shall be notified of the domicile/in-state tuition determination in the acceptance letter which shall be sent within five (5) workdays of TCC's receipt of the Application for Admission. In cases in which the domicile/in-state tuition decision is pending the provision of certain documents, the student shall be advised by an acknowledgment letter of the need to contact the Enrollment Services/Admissions Office at the campus identified in his/her application as the location where he/she intends to attend classes.

¹ In the event that the SCHEV guidelines do not reflect the current provisions of the <u>Code of Virginia</u>, the latter takes precedence.

2.2. Appeal of Domicile/In-State Tuition Determinations

In accordance with the <u>Code of Virginia § 23-7.4:3</u>, TCC shall provide an appeals process for students who believe their domicile/in-state tuition status was determined incorrectly. The process shall consist of an intermediate review of the initial determination at the campus level and a final administrative decision conducted by a college-wide appeals committee consisting of an odd number of members. The decision of the appeals committee shall be transmitted to the student in writing in a reasonable timeframe. The decision of the appeals committee shall be final, subject to review by the circuit court of the jurisdiction in which the campus at which the appeal originated is located.

2.3. Domicile Reclassification

In addition to the appeals process, TCC shall provide a domicile reclassification process for students whose circumstances change after the initial determination of domicile status. The domicile reclassification process shall not be used to appeal or correct an error made in the initial determination of domicile. The reclassification process shall include a determination of the effective date of the change of status based on the documents provided in support of the reclassification request. A domicile determination made in response to a reclassification request may be subject to the appeals process if the student believes the decision was incorrect.

2.4. Implementation of Changes

2.4.1. Appeals

In the event that a decision resulting from the appeals process results in a change in domicile/in-state tuition status and provided the appeal was submitted in a timely manner and does not reflect a change in the student's circumstances, any resulting change in tuition status shall be effective from the beginning of the term for which the appeal was submitted.

2.4.2. Reclassification

Any change in tuition status resulting from a reclassification request shall be effective for the next academic term following the effective date of the change as determined in the reclassification process. However, no change in tuition status shall be made in a term prior to the term in which the complete reclassification request is submitted to the college.

2.5. Domicile Decision Makers

2.5.1. Domicile Officers

Each Campus Dean of Student Services shall appoint in writing a Campus Domicile Officer and one or more Alternate Domicile Officers (collectively, referred to as "Domicile Officers") who shall be responsible for acting on reclassification requests and conducting the intermediate review in cases of appeals of domicile determinations. Domicile Officers shall be familiar

with and remain current on the relevant sections of the <u>Code of Virginia</u> and with the <u>SCHEV Domicile Guidelines</u>. Domicile Officers may not serve on the College Domicile Appeal Committee.

2.5.2. College Domicile Appeal Committee

The College Domicile Appeal Committee shall be comprised of the College Registrar, serving as chair, and the Campus Dean of Student Services for each TCC campus. The committee shall convene as frequently as necessary to meet the appeal timeline delineated in the procedures associated with this policy. When the committee is considering a domicile/in-state tuition appeal from a military-related student, the Director of Military Student Support Services shall serve as a non-voting advisor to the committee.

2.6. Documentation of Decisions

Each domicile/in-state tuition determination shall be made on the basis of appropriate documentation as delineated in the procedures associated with this policy. Such documentation shall be retained in a retrievable format for verification of the soundness of the determination for a period of 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.

2.7. Consistency of Domicile Decisions

The College Domicile Appeal Committee shall semi-annually review a representative sample of the initial determinations where the status was pending provision of documentation, and intermediate review and reclassification decisions made at each campus. For each decision, the review shall determine the adequacy of the documentation and validity of the decision based on that documentation, the Code of Virginia § 23-7.4 and SCHEV Domicile Guidelines in place at the time of the decision, and any special circumstances or considerations applied to the decision. The results of such reviews shall be reported to the Vice President for Student Affairs and the respective campus Provost, Dean of Student Services, and Domicile Officer.

2.8 Non-Domiciliary Decisions

TCC shall afford in-state tuition eligibility to certain individuals (e.g. active duty military, their dependents, veterans, and veterans' dependents using Post 9/11 GI Bill ® or Montgomery GI Bill ®) as authorized in the Code of Virginia § 23-7.4:2 and Public Law 113-146; Section 702, the Veterans Choice Act without regard to domicile. Such decisions shall be made by the individuals authorized to make domicile determinations. In addition, Center for Military and Veterans Education staff designated by the Executive Vice President shall be authorized to make non-domiciliary decisions regarding eligibility for in-state tuition. The appeals and reclassification processes for domicile determinations shall be applied to these decisions.

3. Responsibilities

The Vice President for Student Affairs shall be responsible for developing and maintaining procedures that are consistent with this policy and that comply with applicable regulations, policies, and procedures of the Virginia Community College System, the laws and regulations of the Commonwealth of Virginia, and the interpretive guidance provided by the State Council for Higher Education of Virginia.

4. Procedures

In general, the Code of Virginia § 23-7.4 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 he/she desires 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.

4.1. Clear and Convincing Evidence Standard

The <u>Code of Virginia § 23-7.4</u> 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."

4.1.1. Factors to Be Considered

The <u>Code of Virginia § 23-7.4</u> 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.

4.1.2. Applying the Clear and Convincing Evidence Standard

The <u>SCHEV Domicile Guidelines</u> provide guidance for interpreting the <u>Code</u> 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 [his/her] 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 his/her 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 his/her 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). The military services consider the DoD ID card to be sensitive and frequently advise military-related personnel that they should not permit their DoD ID card to be copied. When using the DoD ID card to verify a student's relationship to the U.S. military, the card need not be copied. The individual making the determination will verify that the DoD ID card is that of the person seeking a domicile/instate tuition decision and the card's expiration date.

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 him/her 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 21st 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 his/her 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.

4.2. 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 five (5) working days of the college's receipt of the Application for Admission, an admission acceptance letter will be sent via U.S. mail to the applicant's mailing 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 his/her domicile status, including whether the status is pending a review by college staff and advice to contact the appropriate campus Enrollment Services/Admissions Office to determine the documentation necessary to facilitate that review and a domicile decision.

4.2.1. 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 Enrollment Services/Admissions Office at the TCC campus identified in the Application for Admission to determine the

document(s) necessary to substantiate his/her 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 his/her in-state tuition status and that he/she should contact the Enrollment Services/Admissions Office within five workdays. The student will be notified that his/her ability to register for classes will be blocked until the required documentation is provided or his/her tuition status is changed to out-of-state.

4.2.2. 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.

4.2.3. Military-Related Students

In view of the special provisions afforded certain military-related students in the <u>Code of Virginia</u>, 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. Such students shall be referred to the TCC Center for Military and Veterans Education (CMVE) or the campus Veterans Affairs Office for assistance in requesting in-state tuition. 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.

4.3. 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 Enrollment Services/Admissions Office at the TCC campus identified in the Application for Admission in a timely manner. The Enrollment Services/Admissions Office staff will review the individual's Domicile Determination Form and advise him/her of the documentation required to substantiate his/her 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 <u>Code of Virginia</u> 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 <u>Code of Virginia</u>. 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. Use 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 the ImageNow student document database.

4.4. Appeals Process

A student who believes an error has been made in his/her domicile determination should contact the Enrollment Services/Admissions Office at the TCC campus identified in the Application for Admission within five (5) workdays of the date on which he/she reasonably should have learned of the tuition status decision. The Enrollment Services/Admissions Office staff will review the individual's Domicile Determination Form and advise him/her 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 Enrollment Services/Admissions Office 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.

4.4.1. 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. The Domicile Officer may consult with other Domicile Officers and is encouraged to do so in situations that are not clearly defined. 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 determination of an Alternate Domicile

Officer will be reviewed by the respective Campus Domicile Officer before it is communicated to the student.

The Intermediate Review decision will be communicated to the student at his/her 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.

4.4.2. Final Administrative Review.

If the student is not satisfied with the result of the Intermediate Review, he/she may advance the appeal and associated documentation to the College Domicile Appeal Committee within five (5) workdays of receiving the report of the Intermediate Review. The committee 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 committee 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 committee's decision, that the committee's decision is final, and that he/she 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 returned to the campus from which the appeal originated and be retained in either paper or electronic form in the campus Domicile Appeals & Reclassification File. A copy of the decision, the appeal, and the associated documentation shall also be provided to the Vice President for Student Affairs.

4.5. 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 Enrollment Services/Admissions 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 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. The Domicile Officer may consult with other Domicile Officers and is encouraged to do so in situations that are not clearly defined. 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 determination of an Alternate Domicile Officer will be reviewed by the respective Campus Domicile Officer before it is communicated to the student.

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.

4.6. Records Maintenance

Each Campus 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.

4.7. Semi-Annual Review

In each January and July, the College Domicile Appeal Committee will review a minimum of ten percent (10%) of decisions made in cases of pending determinations and a minimum of twenty percent (20%) of those domicile appeal and reclassification requests decided at each campus since the previous review. 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 and to the respective campus Provost, Dean of Student Services, and Domicile Officer.

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

4.8. Training

As the chair of the College Domicile Appeal Committee, the College Registrar shall develop and provide training to all campus Domicile Officers and members of the committee. 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 1st of each year, or as soon thereafter as practicable based on SCHEV's promulgation of revised quidelines.

5. Definitions

For definitions associated with domicile determinations, see <u>Part I of the SCHEV</u> <u>Domicile Guidelines</u>.

6. References

Code of Virginia § 23-7.4, et seq.

<u>Library of Virginia Records Retention and Disposition Schedule for Colleges and Universities (GS-111)</u>

Policy 2207 Rev: 2 August 4, 2016

State Council of Higher Education for Virginia (SCHEV) Domicile Guidelines
The Public Law 113-146, Section 702 (The Veterans Choice Act) Choice Act)

7. Review Periodicity and Responsibility

The Vice President for Student Affairs shall review this policy annually on the anniversary of its approval and, if necessary, recommend revisions.

8. Effective Date and Approval

This revision to the policy is effective upon its approval by the College President on August 4, 2016.

Policy Approved: Procedure Developed:

Edna V. Baehre-Kolovani, Ph.D. Michael D. Summers, Ed.D.

President Interim Vice President for Student

Affairs

9. Review and Revision History

The initial version of this policy was approved on July 25, 2013.

• Revision 1 modified appendices B and C to reflect current practice and options for non-domiciliary determinations of eligibility for in-state tuition.

Approved February 27, 2014 by President Edna V. Baehre-Kolovani, Ph.D.

Revision 2 adds the provisions of The Veterans Choice Act into the procedures
used in the domiciliary process. This revision also removes the domicile forms
as appendices from the policy to facilitate more efficient changes on those
forms in the future.

Approved August 4, 2016 by President Edna V. Baehre-Kolovani, Ph.D.