

**Supplemental Guidelines for Determining Tuition Rates
For Certain Categories of Non-Resident Aliens**

These guidelines supplement Section 62-604(A) (Non-Citizens and Non-Permanent Residents) of the State's regulations concerning the Determination of Rates and Fees.

Following is a list of non-immigrant alien visa classifications which allow the holder, regardless on whom they are dependent, to be classified for tuition and fee purposes as an in-state resident. Individuals in these visa categories may be assigned in-state tuition status if they are able to satisfy all other residency criteria:

<u>Visa Classification</u>	<u>Description</u>
A-1	Highest diplomatic officers and their families
A-2	Staff under diplomatic officers and their families
G-1	Principal representatives to international organizations (and their families)
G-2	Other representatives of foreign governments or international organizations (and their families)
G-3	Representatives of foreign governments (and their families)
G-4	Officers and employees of international organizations (and their families)
K-1	Fiancee or Fiance of U.S. Citizens
K-2	Child of Fiancee or Fiance of U.S. Citizen
N-8	Parent of alien child accorded special immigrant status
N-9	Child of an alien parent accorded special immigrant status

IMMIGRATION AND NATURALIZATION GENERAL COUNSEL
OPINIONS RE CAPACITY FOR DOMICILE UNDER FEDERAL LAW

The INS General Counsel, in correspondence with Coordinating Board of the Texas State College and University System, has issued several opinions on whether or not certain visa categories are capable, under federal law, of establishing U.S. domicile. The opinions rely on the reasoning behind Toll v. Moreno, 458 U.S. 1 (1982), and Elkins v. Moreno, 435 U.S. 647 (1978) in which the Supreme Court examined Maryland's tuition classification system related to G-4 status. The General Counsel interprets these cases to hold that a non-immigrant is only capable of establishing domicile under federal law if the visa holder is permitted to remain in the U.S. indefinitely. Therefore, in issuing opinions on particular non-immigrant categories, his opinions turn on the length of admission and extensions allowed to each category under U.S. immigration statutes.

The General Counsel found the following visa categories capable of establishing domicile under federal law:

A-1, A-2 (10-15-85)
G 1-4 (10-15-85)
K-1 (9-3-86)
Asylee (and, by analogy, refugees) (4-8-86)

The General Counsel found the following visa categories not capable of establishing domicile under federal law:

E-1 (initial admission limited to 1 year) (10-16-85)
L-1 (temporary purpose, extensions limited) (9-3-86)
H-1 (temporary purpose, extensions limited)
NATO (enter under Status of Forces Agreement; Article III says no right to permanent residence or domicile) (8-20-85)
I-1 (will return home) (9-3-86)
A-3 (entry time and extensions limited) (10-16-85)
G-5 (entry time and extensions limited) (10-16-85)