



Lander University Financial Aid Office

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COMMST

Common Law Marriage Certification - Student

Student's Last Name	First Name	MI	Lander ID (L#)
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While working on your application for financial aid, we have come across some information that we need to resolve regarding your marital status.

IRS Publication 17 states that a tax filer's filing status depends on whether the filer is considered unmarried or married. For federal tax purposes, a marriage means only a legal union between a man and a woman as husband and wife. However, a tax filer could be considered married for the whole year if **on the last day of the tax year** the man and woman are living together in a common law marriage that is recognized in the state where they now live or in the state where the common law marriage began.

The requirements for a common law marriage are as follows:

- The couple must live together for a significant amount of time. The word *significant* is not defined in any state, but is generally interpreted as sufficient time to reasonably establish the intent of the couple to be married.
- The couple must hold themselves out as married. This can include use of the same last name, referring to each other as husband and wife, maintaining a joint checking account, signing a lease as "Mr. and Mrs.", and filing a joint income tax return.
- The couple must have the capacity to be married. This means they must have the legal and mental capacity to be married and not be already married to someone else.
- The couple must intend (consent) to be married. Intent is usually judged by the couple's conduct.
- The couple must have a reputation in the community as being married.

The key requirement is cohabitation while holding themselves out as being married. Mere cohabitation without holding themselves out as a married couple does not constitute marriage.

For SC, the requirement is that the couple intends for others to believe the couple is married.

If you feel you meet the definition of a common law marriage, please complete the following certification with both the husband's and wife's signatures, as well as that of a notary. If you meet the definition of a common law marriage, you will need to be sure that the FAFSA accurately reflects this status. Both the husband's and wife's income, assets, biographical and household information must be included.

Both I, (husband's name) _____, and I, (wife's name) _____, do hereby certify that we meet the definition of being in a common law marriage. We mutually agreed to become husband and wife on (date of common law marriage) _____.

Husband's Signature	Printed Name	Phone #	Date
Wife's signature	Printed Name	Phone #	Date
Notary's signature	Printed Name	Phone #	Date

Examples of documents to establish the existence of a common law marriage are listed below.

- Signed affidavits from other people who are familiar with your relationship and are able to confirm the length of time you have lived together, your addresses, whether your friends recognize you as married;
- Deeds to jointly owned property;
- Tax returns with a tax filing status of "Married";
- Bank statements showing joint ownership;
- Loan or mortgage documents showing joint obligation;
- Birth certificates naming both common law spouses as parents of your children;
- Insurance policies showing each other as beneficiaries;
- Credit card accounts in the name of both spouses;
- Mail addressed to you and your common law spouse as Mr. and Mrs.