

Florida Board of Governors

RESOLUTION

WHEREAS, the voters of the State of Florida passed Amendment 11 to Article IX, Section 7 of the Florida Constitution, thereby creating the Board of Governors; and

WHEREAS, the Board of Governors shall operate, regulate, control, and be fully responsible for the management of the state university system of Florida; and

WHEREAS, the Board of Governors' responsibilities shall include, but not be limited to, defining the distinctive mission of each constituent university and its articulation with free public schools and community colleges, ensuring the well-planned coordination and operation of the system, and avoiding wasteful duplication of facilities or programs; and

WHEREAS, the administrative rules of the State Board of Education address residency for tuition purposes pursuant to Section 1009.21, Florida Statutes; and

WHEREAS, the Board of Governors recognizes the need to coordinate the adoption of rules that have an impact on multiple educational sectors with the State Board of Education;

NOW THEREFORE, BE IT RESOLVED that the Board of Governors hereby adopts State Board of Education rule 6A-10.044 (Residency for Tuition Purposes) as follows:

Residency for Tuition Purposes. The purpose of this rule is to establish consistent policies for the classification of students as residents for tuition purposes. The determinations of classification or reclassification shall be consistent to assure that students are classified the same regardless of the institution determining the classification.

- (1) The classification of a student as a Florida resident for tuition purposes by an institution or entity governed by Section 1009.40, Florida Statutes, shall be recognized by other public postsecondary institutions to which the student may later seek admission, provided that student has attended the institution or entity making the classification within the last twelve (12) months and the residency is noted on the student's transcript. Once a student has been classified by an institution or entity as a resident for tuition purposes, institutions to which the student may transfer are not required to re-evaluate the classification unless inconsistent information suggests that an erroneous classification was made or the student's situation has changed.
- (2) Non-U.S. citizens such as permanent residents, parolees, asylees, refugees, or other permanent status persons (e.g., conditional permanent residents and temporary residents), who have applied to and have been approved by the U.S. Bureau of Citizenship and Immigration Services with no date certain for departure shall be considered eligible to establish Florida residency for tuition purposes.

- (3) Nonimmigrants holding one of the following visas shall be considered eligible to establish Florida residency for tuition purposes. Persons in visa categories not listed herein shall be considered ineligible to establish Florida residency for tuition purposes.
- (a) Visa category A - Government official.
 - (b) Visa category E - Treaty trader or investor.
 - (c) Visa category G - Representative of international organization.
 - (d) Visa category H-1 - Temporary worker performing professional nursing services or in a specialty occupation.
 - (e) Visa category H-4 - Only if spouse or child of alien classified H-1.
 - (f) Visa category I - Foreign information media representative.
 - (g) Visa category K -Fiancé, fiancée, or a child of United States citizen(s).
 - (h) Visa category L - Intracompany transferee (including spouse or child).
 - (i) Visa category N - Parent or child of alien accorded special immigrant status.
 - (j) Visa category O-1 - Workers of "extraordinary" ability in the sciences, arts, education, business, or athletics.
 - (k) Visa category O-3 - Only if spouse or child of O-1 alien.
 - (l) Visa category R - Religious workers.
 - (m) Visa category NATO 1-7 - Representatives and employees of NATO and their families.
 - (n) Visa category T – Victims of trafficking, who cooperate with federal authorities in prosecutions of traffickers, and their spouses and children.
 - (o) Visa category V - Spouses and children of lawful permanent residents.
- (4) Non-U.S. citizens who fall within the following categories shall also be considered eligible to establish Florida residency for tuition purposes:
- (a) Citizens of Micronesia.
 - (b) Citizens of the Marshall Islands.
 - (c) Beneficiaries of the Family Unity Program.
 - (d) Individuals granted temporary protected status.
 - (e) Individuals granted withholding of deportation status.
 - (f) Individuals granted suspension of deportation status or cancellation of removal.

- (g) Individuals granted a stay of deportation status.
 - (h) Individuals granted deferred action status.
 - (i) Individuals granted deferred enforced departure status.
 - (j) Applicants for adjustment of status.
 - (k) Asylum applicants with INS receipt or Immigration Court stamp.
- (5) If a declaration of domicile, pursuant to Section 222.17, Florida Statutes, is being used as one of the documents to establish residency for tuition purposes, the date that an applicant shall be deemed as establishing residency for tuition purposes shall be twelve (12) months hence from the date that the Clerk of Circuit Court notes the declaration was sworn and subscribed to them. Nothing in this subsection shall prevent the use of additional documentation as evidence that legal residency was established by other means pursuant to Section 1009.21(1)(c), Florida Statutes, as of a date earlier than that established by the Declaration of Domicile.
- (6) An applicant shall be classified at the time of initial classification as an "All Florida" resident for tuition purposes, and the institution to which the applicant is applying shall grant the applicant residency for tuition purposes, if all of the following criteria are met. If the applicant does not meet all of the criteria, he or she must be evaluated to determine residency status.
- (a) Students requesting All Florida resident status as an independent person must meet all of the following criteria:
 1. The student's nation of citizenship is the United States;
 2. The student is twenty-four (24) years of age or over;
 3. The student's permanent address is a Florida address;
 4. The high school from which the student graduated is a Florida high school;
 5. Every institution the student attended is located in the State of Florida; and
 6. The student provides written or electronic verification that he or she has been issued two (2) of the following three (3) Florida documents that are dated more than twelve (12) months old: a voter's registration, a driver's license or a vehicle registration.
 - (b) Students requesting All Florida resident status as a dependent person must meet all of the following criteria:
 1. The student is eligible to be claimed by his or her parent or legal guardian as a dependent under the federal income tax code;
 2. The student's nation of citizenship is the United States

3. The student is under twenty-four (24) years of age;
 4. The student's mother, father or legal guardian is the person claiming Florida residence;
 5. The student's mother, father or legal guardian claiming Florida residence has a Florida permanent legal address; and
 6. The student's mother, father or legal guardian claiming Florida residence provides written or electronic verification that he or she has been issued two of the following three Florida documents that are dated more than twelve (12) months old: a voter's registration, a driver's license or a vehicle registration.
- (7) An applicant, who at the time of initial classification is not classified as an All Florida resident for tuition purposes, shall be further assessed by the institution to which the applicant is applying. The student shall provide clear and convincing evidence that establishes that he or she, or if a dependent, the student's mother, father, or guardian, has been a Florida resident for the preceding twelve (12) months. No single piece of documentation shall be conclusive.
- (a) The documentation may include, but is not limited to, the following: driver's license, voter registration card, vehicle registration, declaration of domicile, proof of purchase of a permanent home, transcripts from a Florida school for multiple years, proof of permanent full-time employment, a Professional or Occupational License, Florida incorporation, documents evidencing family ties, proof of membership in organizations, and any other documentation that supports the student's request for resident status.
 - (b) Dependent or independent status will be based on a copy of a student's or his or her parents' most recent tax return or other documentation. A dependent person will be one for whom fifty (50) percent or more of his or her support has been provided by another as defined by the Internal Revenue Service. An independent person will be one who provides more than fifty (50) percent of his or her own support.
 - (c) An independent or dependent student who is enrolled full-time in an institution and is seeking to be re-classified as a resident for tuition purposes, must provide such documentation which substantiates that he or she, or if a dependent, the student's mother, father, or guardian, is establishing Florida as his or her permanent domicile and not as a mere temporary residence incident to the enrollment in higher education.
- (8) A student, or if a dependent his or her father, mother or guardian, must maintain legal residence in the state of Florida for at least twelve (12) months immediately prior to the first day of classes of the term for which residency status is sought at a Florida institution. Institutions may establish submission deadlines for all documentation that will be used to determine residency for tuition purposes. The

burden of providing the documentation, which justifies the classification of a student as a resident for tuition purposes, rests with the applicant.

- (9) Notwithstanding the foregoing, institutions shall classify persons as residents for tuition purposes in accordance with the criteria set forth in Section 1009.21, Florida Statutes.
- (10) For purposes of determining residency for tuition purposes, any reference to federal or state government shall be construed as meaning U.S. federal or Florida state government.
- (11) In determining the domicile of a married person, the determination of a legally married person shall be consistent with Chapter 741, Florida Statutes.
- (12) Definitions.
 - (a) The term "institution," as used in this rule when adopted by the Board of Governors shall mean state universities, and when adopted by the State Board of Education shall mean community colleges, with the understanding that both Boards shall coordinate and cooperate as a K-20 system.
 - (b) Community colleges shall mean those set forth in Section 1000.21(3), Florida Statutes.
 - (c) State universities shall mean those set forth in Section 1000.21(6), Florida Statutes.
 - (d) The term "full-time" shall mean enrollment in twelve (12) or more credits per term for under-graduate students and nine (9) or more credits per term for graduate students. Institutions may provide exceptions for students such as, dissertation students, co-op students, or students with disabilities.

PASSED AND ADOPTED by the Board of Governors of the State of Florida at a public meeting thereof duly called and held this 21st day of April 2005.