

3333-1-10

Ohio student residency for state subsidy and tuition surcharge purposes.**(A) Intent and authority**

- (1) It is the intent of the chancellor of the Ohio department of higher education in promulgating this rule to exclude from treatment as residents, as that term is applied here, those persons who are present in the state of Ohio primarily for the purpose of receiving the benefit of a state-supported education.
- (2) This rule is adopted pursuant to Chapter 119. of the Revised Code, and under the authority conferred upon the chancellor of the Ohio department of higher education by section 3333.31 of the Revised Code.

(B) Definitions

For purposes of this rule:

- (1) "Resident " shall mean any person who maintains a twelve-month place or places of residence in Ohio, who is qualified as a resident to vote in Ohio and receive state public assistance, and who may be subjected to tax liability under section 5747.02 of the Revised Code, provided such person has not, within the time prescribed by this rule, declared himself or herself to be or allowed himself or herself to remain a resident of any other state or nation for any of these or other purposes.
- (2) "Financial support" as used in this rule, shall not include grants, scholarships and awards from persons or entities which are not related to the recipient unless such grants, scholarships and awards require residency of another state or nation.
- (3) An "institution of higher education" shall have the same meaning as "state institution of higher education" as that term is defined in section 3345.011 of the Revised Code, and shall also include private medical and dental colleges which receive direct subsidy from the state of Ohio.
- (4) "Domicile" as used in this rule is a person's permanent place of abode, so long as the person has the legal ability under federal and state law to reside permanently at that abode. For the purpose of this rule, only one domicile may be maintained at a given time.
- (5) "Dependent" shall mean a student who was claimed as a dependent, as defined in 26 U.S. Code section 152, dated 2011 on the filer's internal revenue service tax filing for the previous tax year.

- (6) "Residency Officer" means the person or persons at an institution of higher education that has the responsibility for determining residency of students under this rule.
- (7) "Community Service Position" shall mean a position volunteering or working for:
 - (a) VISTA, Americorps, city year, the peace corps, "Teach for America," or any similar program as determined by the chancellor of the Ohio department of higher education; or
 - (b) An elected or appointed public official for a period of time not exceeding twenty-four consecutive months.
- (8) "Alien" means a person who is not a United States citizen or a United States national.
- (9) "Immigrant" means an alien who has been granted the right by the United States citizenship and immigration services to reside permanently in the United States and to work without restrictions in the United States.
- (10) "Nonimmigrant" means an alien who has been granted the right by the United States citizenship and immigration services to reside temporarily in the United States.
- (11) "Certificate of high school equivalence" means either of the following:
 - (a) A certificate of high school equivalence awarded by the department of education under division (A) of section 3301.80 of the Revised Code; or
 - (b) The equivalent of a certificate of high school equivalence awarded by the state board of education under former law, as defined in division (C)(1) of section 3301.80 of the Revised Code.

(C) Residency for subsidy and tuition surcharge purposes

The following persons shall be classified as residents of the state of Ohio for subsidy and tuition surcharge purposes:

- (1) A student whose spouse, or a dependent student, at least one of whose parents or legal guardian, has been a resident of the state of Ohio for all other legal purposes for twelve consecutive months or more immediately preceding the enrollment of such student in an institution of higher education.

- (2) A person who has been a resident of Ohio for the purpose of this rule for at least twelve consecutive months immediately preceding his or her enrollment in an institution of higher education and who is not receiving, and has not directly or indirectly received in the preceding twelve consecutive months, financial support from persons or entities who are not residents of Ohio for all other legal purposes.
- (3) A dependent student of a parent or legal guardian, or the spouse of a person who, as of the first day of a term of enrollment, has accepted full-time, self-sustaining employment and established domicile in the state of Ohio for reasons other than gaining the benefit of favorable tuition rates.

Documentation of full-time employment and domicile shall include both of the following documents:

- (a) A sworn statement from the employer or the employer's representative on the letterhead of the employer or the employer's representative certifying that the parent, legal guardian or spouse of the student is employed full-time in Ohio.
 - (b) A copy of the lease under which the parent, legal guardian or spouse is the lessee and occupant of rented residential property in the state; a copy of the closing statement on residential real property located in Ohio of which the parent, legal guardian or spouse is the owner and occupant; or if the parent, legal guardian or spouse is not the lessee or owner of the residence in which he or she has established domicile, a letter from the owner of the residence certifying that the parent, legal guardian or spouse resides at that residence.
- (4) A veteran, and the veteran's spouse and any dependent of the veteran, who meets both of the following conditions:
 - (a) The veteran either (i) served one or more years on active military duty and was honorably discharged or received a medical discharge that was related to the military service or (ii) was killed while serving on active military duty or has been declared to be missing in action or a prisoner of war.
 - (b) If the veteran seeks residency status for tuition surcharge purposes, the veteran has established domicile in this state as of the first day of term of enrollment in an institution of higher education. If the spouse or a dependent of the veteran seeks residency status for tuition surcharge purposes, the veteran and the spouse or dependent seeking residency

status have established domicile in this state as of the first day of a term of enrollment in an institution of higher education, except that if the veteran was killed while serving on active military duty, has been declared to be missing in action or a prisoner of war, or is deceased after discharge, only the spouse or dependent seeking residency status shall be required to have established domicile in accordance with this division.

Domicile as used in paragraph (C)(4)(b) of this rule shall have the same meaning as used in paragraph (C)(3)(b) of this rule.

- (5) A veteran who is the recipient of federal veterans' benefits under the "All-Volunteer Force Educational Assistance Program," 38 U.S.C. 3001 et seq., or "Post-9/11 Veterans Educational Assistance Program," 38 U.S.C. 3301 et seq., or any successor program, if the veteran meets all of the following criteria:

- (a) The veteran served at least ninety days or active duty.
- (b) The veteran enrolls in a state institution of higher education, as defined in section 3345.011 of the Revised code.
- (c) The veteran lives in the state as of the first day of a term of enrollment in the state institution of higher education.

- (6) A person who is the recipient of the federal "Marine Gunnery Sergeant John David Fry" scholarship or transferred federal veterans' benefits under any of the programs listed in paragraph (C)(5) of this rule, if the person meets both of the following criteria:

- (a) The person enrolls in a state institution of higher education.
- (b) The person lives in the state as of the first day of a term of enrollment in the state institution of higher education

In order for a person using transferred federal veterans' benefits to qualify under paragraph (C)(6) of this rule, the veteran who transferred such benefits must have served at least ninety days on active duty or the servicemember who transferred such benefits is on active duty.

- (7) A person who is using federal veterans' educational assistance under the "Vocational Rehabilitation and Employment," 38 U.S.C. 3101 et seq if the person meets the following criteria:

- (a) The person enrolls in a state institution of higher education.

- (b) The person lives in the state as of the first day of a term of enrollment in the state institution of higher education.
 - (8) A person who, while a resident of this state for state subsidy and tuition surcharge purposes, graduated from a high school in this state or completed the final year of instruction at home as authorized under section 3321.04 of the Revised Code, if the person enrolls in an institution of higher education and establishes domicile in this state, regardless of the student's residence prior to that enrollment; unless the person is in the United States on a student visa and has not petitioned for a change in status.
 - (9) A person who enrolls in an institution of higher education and establishes domicile in this state, regardless of the student's residence prior to that enrollment, unless the person is in the United States on a student visa and has not petitioned for a change in status and the person meets all of the following criteria:
 - (a) The person officially withdrew from a school in this state while the person was a resident of this state for state subsidy and tuition surcharge purposes;
 - (b) The person has not received a high school diploma or honors diploma awarded under section 3313.61, 3313.611, 3313.612, or 3325.08 of the Revised Code or a high school diploma awarded by a school located in another state or country; and
 - (c) The person while a resident of this state for state subsidy and tuition surcharge purposes, both took a high school equivalency test and was awarded a certificate of high school equivalence.
 - (10) A service member who is on active duty and to the service member's spouse and any dependent of the service member while the service member is on active duty. In order to qualify under this paragraph, the student seeking in-state tuition rates must live in the state as of the first day of a term of enrollment in the state institution of higher education, but the student or the service member shall not be required, to establish domicile in this state as of the first day of a term of enrollment in an institution of higher education.
- (D) Additional criteria which may be considered in determining residency may include but are not limited to the following:
- (1) Criteria evidencing residency:
 - (a) If a person is subject to tax liability under section 5747.02 of the Revised Code;

- (b) If a person qualifies to vote in Ohio;
- (c) If a person is eligible to receive Ohio public assistance;
- (d) If a person has an Ohio's driver's license and/or motor vehicle registration.

(2) Criteria evidencing lack of residency

- (a) If a person is a resident of or intends to be a resident of another state or nation for the purpose of tax liability, voting, receipt of public assistance, or student loan benefits (if the student qualified for that loan program by being a resident of that state or nation);
- (b) If a person is a resident or intends to be a resident of another state or nation for any purpose other than tax liability, voting, or receipt of public assistance (see paragraph (D)(2)(a) of this rule)-, such as declaring to be in the United States/Ohio for the purposes of seeking an education.

(3) For the purpose of determining residency for tuition surcharge purposes at Ohio's state-assisted colleges and universities, an individual's immigration status will not preclude an individual from obtaining resident status if that individual has the current legal status to remain permanently in the United States. However, a student shall not be granted residency status if the alien is not also an immigrant or a nonimmigrant.

(E) Exceptions to the general rule of residency for subsidy and tuition surcharge purposes:

- (1) A person who is living and is gainfully employed on a full-time or part-time and self-sustaining basis in Ohio and who is pursuing a part-time program of instruction at an institution of higher education shall be considered a resident of Ohio for these purposes.
- (2) A person who enters and currently remains upon active duty status in the United States military service while a resident of Ohio for all other legal purposes and his or her dependents shall be considered residents of Ohio for these purposes as long as Ohio remains the state of such person's domicile.
- (3) A person on active duty status in the United States military service who is stationed and resides in Ohio and his or her dependents shall be considered residents of Ohio for these purposes.
- (4) A person who is transferred by his employer beyond the territorial limits of the fifty states of the United States and the District of Columbia while a resident of Ohio for all other legal purposes and his or her dependents shall be considered

residents of Ohio for these purposes as long as Ohio remains the state of such person's domicile as long as such person has fulfilled his or her tax liability to the state of Ohio for at least the tax year preceding enrollment.

- (5) A person who has been employed as a migrant worker in the state of Ohio and his or her dependents shall be considered a resident for these purposes provided such person has worked in Ohio at least four months during each of the three years preceding the proposed enrollment.
- (6) A person who was considered a resident under this rule at the time the person started a community service position as defined under this rule, and his or her spouse and dependents, shall be considered a residents of Ohio while in service and upon completion of service in the community service position.
- (7) A person who returns to the state of Ohio due to marital hardship, takes or has taken legal steps to end a marriage, and reestablishes financial dependence upon a parent or legal guardian (receives greater than fifty per cent of his or her support from the parent or legal guardian), and his or her dependents shall be considered residents of Ohio.
- (8) A person who is a member of the Ohio national guard, and his or her spouse and dependents, shall be considered residents of Ohio while the person is in Ohio national guard service.

(F) Procedures

- (1) A dependent person classified as a resident of Ohio for these purposes under the provisions of paragraph (C)(1) of this rule and who is enrolled in an institution of higher education when his or her parents or legal guardian removes their residency from the state of Ohio shall continue to be considered a resident during continuous full-time enrollment and until his or her completion of any one academic degree program.
- (2) In considering residency, removal of the student or the student's parents or legal guardian from Ohio shall not, during a period of twelve months following such removal, constitute relinquishment of Ohio residency status otherwise established under paragraph (C)(1) or (C)(2) of this rule.
- (3) For students who qualify for residency status under paragraph (C)(3) of this rule, residency status is lost immediately if the employed person upon whom resident student status was based accepts employment and establishes domicile outside Ohio less than twelve months after accepting employment and establishing domicile in Ohio.

- (4) Any person once classified as a nonresident, upon the completion of twelve consecutive months of residency, must apply to the institution he or she attends for reclassification as a resident of Ohio for these purposes if such person in fact wants to be reclassified as a resident. Should such person present clear and convincing proof that no part of his or her financial support is or in the preceding twelve consecutive months has been provided directly or indirectly by persons or entities who are not residents of Ohio for all other legal purposes, such person shall be reclassified as a resident.

Evidentiary determinations under this rule shall be made by the institution which may require, among other things, the submission of documentation regarding the sources of a student's actual financial support.

- (5) Any reclassification of a person who was once classified as a nonresident for these purposes shall have prospective application only from the date of such reclassification.
- (6) Any institution of higher education charged with reporting student enrollment to the chancellor of the Ohio department of higher education for state subsidy purposes and assessing the tuition surcharge shall provide individual students with a fair and adequate opportunity to present proof of his or her Ohio residency for purposes of this rule. Such an institution may require the submission of affidavits and other documentary evidence which it may deem necessary to a full and complete determination under this rule.

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