

3.18 RESIDENCE STATUS OF ENROLLED STUDENTS

3.18.1 Purpose

Oklahoma statute 70 O.S., Supp. 2003, §3218.9 authorizes the State Regents to establish the proposed fees to be charged at public institutions to Oklahoma residents and nonresidents alike. The policy statement set forth in the paragraphs to follow establishes principles, definitions, criteria, and guidelines to assist institutional officials in the classification of students as residents or nonresidents for fee and tuition-payment purposes. Also, the policy statement should be helpful to prospective students in the determination of their own residence status prior to enrollment or for those nonresident students seeking to be reclassified as residents of Oklahoma after having been classified originally as nonresidents. Determination of residence status for purposes of attendance at an institution in The State is based primarily on the issue of domiciliary intent.

Since 1890, it has been public policy in Oklahoma to provide comprehensive, low-cost public higher education for citizens, in order to make educational opportunities available for Oklahoma individuals to improve themselves, to help upgrade the knowledge and skills of the Oklahoma work force, and to enhance the quality of life in Oklahoma generally. Therefore, residents of Oklahoma are afforded subsidies covering a majority of their educational costs at all colleges and universities of the State System. Nonresidents of Oklahoma are also provided substantial educational subventions, although at lower levels than those provided for permanent residents of the state.

3.18.2 Definitions

The following words and terms, when used in the Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

“Dependent Person” is one who is under the care, custody, and support of a parent or legal guardian.

“Foreign National” is one who is not a legal U.S. citizen.

“Full-Time Professional Practitioner or Worker” is one who has come to Oklahoma to practice a profession on a full-time basis, conduct a business full-time, or work on a full-time basis.

“Full-Time Student” is an undergraduate student enrolled in a minimum of 12 credit hours per semester in an academic year or a minimum of six credit hours in a summer session. A full-time graduate student is one enrolled in a minimum of nine credit hours per semester in an academic year or a minimum of four credit hours in a summer session.

“Independent Person” is one enjoying majority privileges (or is legally emancipated from the parental domicile) and who is responsible for his or her own care, custody, and support.

“Resident of Oklahoma” is one who has lived continuously in Oklahoma for at least 12 months duration and whose domicile is in Oklahoma. A person's domicile is his or her true, fixed, permanent home

or habitation. It is the place where he or she intends to remain and to which he or she expects to return. A person can have more than one residence, but only one domicile. Domicile has two components -- residence and the intention to remain. When these two occur, there is domicile.

3.18.3 Principles

- A. Attendance at an educational institution, albeit a continuous and long-term experience, is interpreted as temporary residence; therefore, a student neither gains nor loses residence status solely by such attendance.
- B. Students attending an Oklahoma college or university may perform many objective acts, some of which are required by law (i.e. payment of taxes), and all of which are customarily done by some nonresidents who do not intend to remain in Oklahoma after graduation, but are situationally necessary and/or convenient (i.e. registering to vote, obtaining a driver's license). Such acts and/or declarations alone are not sufficient evidence of intent to remain in Oklahoma beyond the college experience.
- C. A nonresident student attending an Oklahoma college or university on more than a half-time basis is presumed to be in the state primarily for educational purposes.
- D. An individual is not deemed to have acquired status as a resident of Oklahoma until he or she has been in the state for at least a year primarily as a permanent resident and not merely as a student. Likewise, an individual classified as a resident of Oklahoma shall not be reclassified as a nonresident until 12 months after having left Oklahoma to live in another state.
- E. Unless residency has been established in another state, a student who resided in Oklahoma at the time of graduation from an Oklahoma high school and has resided in the state with a parent or legal guardian for the two years prior to graduation from high school will be eligible for resident tuition and scholarships or financial aid provided by the state, regardless of immigration status.
- F. All married persons shall be treated as equal under this policy. Each spouse in a family shall establish his or her own residence status on a separate basis. Exceptions include: (1) when a nonresident marries an already established resident of Oklahoma, the nonresident may be considered a resident after documentation of the marriage and proof of domicile are satisfied, and (2) as provided in sections 3.18.7 and 3.18.8.
- G. The burden of proof of establishing Oklahoma residence or domicile, including providing any supporting documentation, shall be upon the applicant. Since residence or domicile is a matter of intent, each case will be judged on its own merit by the appropriate institutional official(s) consistent with this policy. No definitive set of criteria can be established as sufficient to

guarantee classification as a resident of Oklahoma.

- H. Initial classification as a nonresident student shall not prejudice the right of a person to be reclassified thereafter for following semesters or terms of enrollment as an Oklahoma resident provided that he or she can establish proof of residence in accordance with criteria and procedures as set forth in this policy.

3.18.4 Independent Persons

If a person enjoying majority privileges and who is independent of parental domicile can provide adequate and satisfactory proof of having come to Oklahoma with the intention of establishing domicile, that person may be granted resident student classification at the next enrollment occurring after expiration of 12 months following the establishment of domicile in Oklahoma. The spouse of such person must establish proof of his or her own domiciliary status on a separate basis, except as provided in other sections of this policy.

3.18.5 Dependent Persons

The legal residence of a dependent person is that of the student's parents, or the legal residence of the parent who has legal custody or the parent with whom the student habitually resides. If the student is under the care of those other than the parents, the legal residence is that of the student's legal guardian.

A dependent person may become emancipated (freed from the parental domicile) through marriage, formal court action, abandonment by parents, or positive action on the student's own part evidential of alienation of parental domicile. To qualify under the latter category, a dependent person must have completely separated from the parental domicile and have proved that such separation is complete and permanent. Mere absence from the parental domicile is not proof of its complete abandonment. If an applicant can provide adequate and satisfactory proof of complete emancipation and having come to Oklahoma with the intention of establishing domicile, the applicant may be granted resident student classification at the next enrollment occurring after expiration of 12 months following establishment of domicile in Oklahoma.

3.18.6 Foreign Nationals

An individual who is not a U.S. national may become eligible for classification as an Oklahoma resident provided that the individual holds lawful permanent residence status as defined by U.S. Citizenship and Immigration Services (USCIS), evidenced by whatever documents may be required under applicable federal law, who has resided in Oklahoma for at least 12 consecutive months, and who meets other applicable criteria for establishment of domicile as set forth in this policy or who has come to Oklahoma as a full-time professional practitioner or worker as described below.

In accordance with Title 70, Section O.S., §3242 (2007) (also known as HB1804 of the First Regular Session of the 51st Legislature (HB1804)), an individual who cannot present to the institution valid documentation of United States nationality or an immigration status permitting study at a postsecondary institution, but who has graduated from a public or private high school in Oklahoma, may be eligible for enrollment, resident tuition and state student financial aid if the individual meets the following criteria:

- A. Resided in this state with a parent or legal guardian while attending classes at a public or private high school in this state for at least two (2) years prior to graduation;
- B. Satisfied admission standards for the institution; and
- C. Either:
 - (1) Provides to the institution a copy of a true and correct application or petition filed with the USCIS to legalize the student's immigration status, or
 - (2) Files an affidavit with the institution stating that the student will file an application to legalize his or her immigration status at the earliest opportunity the student is eligible to do so, but in no case later than:
 - (a) One (1) year after the date on which the student enrolls for study at the institution, or
 - (b) If there is no formal process to permit children of parents without lawful immigration status to apply for lawful status without risk of deportation, one (1) year after the date the USCIS provides such a formal process, and
 - (3) If the student files an affidavit pursuant to subsection C(2) above, presents to the institution a copy of a true and correct application or petition filed with the USCIS no later than:
 - (a) One (1) year after the date on which the student enrolls for study at the institution, or
 - (b) If there is no formal process to permit children of parents without lawful immigration status to apply for lawful status without risk of deportation, one (1) year after the date the USCIS provides such a formal process, which copy shall be maintained in the institution's records for that student.
- D. Any student who completes the required criteria prescribed in subsection A, subsection B and subsection C(1) above, shall not be disqualified on the basis of the student's immigration status from any scholarships or financial aid provided by this state.
- E. This policy shall not impose any additional conditions to maintain resident tuition status at a post-secondary educational

institution within The Oklahoma State System of Higher Education on a student who was enrolled in a degree program and first received such resident tuition status at that institution during the 2006-2007 school year or any prior year.

3.18.7 Military Personnel

A student attending an institution while on full-time active duty in the armed forces is considered as having a temporary residence in the state in which the student is attending school; therefore, a student neither gains nor loses residence status solely by such military service. Members of the armed services stationed in Oklahoma, their spouses and dependent children shall be admitted without the payment of nonresident tuition and without the 12 month domiciliary requirement, so long as they continue to be stationed in the state in full-time military service and under military orders.

While the policy clearly states that nonresident tuition will be waived for military personnel, such a waiver does not constitute Oklahoma residence status. Military personnel and their dependents who provide proof of a legal change in their state of residence to Oklahoma (such as claiming Oklahoma for income tax purposes) may have the full benefits of residence status.

Dependent children of military personnel that establish residency as described in section 3.18.3 of this policy shall maintain residence status if their parents are subsequently stationed out-of-state. Dependents of military personnel who have not established residency according to policy may maintain nonresident waiver status if their parents are subsequently stationed out-of-state.

3.18.8 Full-Time Professional Practitioner or Worker

An individual who provides evidence of having come to Oklahoma to practice a profession on a full-time basis, conduct a business full time, or work on a full-time basis shall be immediately declared an Oklahoma resident along with the individual's spouse and dependent children without the 12 month domiciliary requirement so long as they continue in such full-time employment capacity or until such time that they establish residency as described in section 3.18.3 of this policy.

Dependent children of the above professionals that establish residency as described in section 3.18.3 of this policy may maintain residence status if their parents subsequently leave the state.

Likewise, a full-time professional practitioner or worker who is temporarily assigned to another location but maintains residency in Oklahoma (such as claiming Oklahoma for income tax purposes) shall be considered a resident for tuition and state scholarship and financial aid purposes, along with the practitioner's spouse and dependent children.

3.18.9 Reclassification

In addition to the aforementioned criteria, an independent person seeking to be reclassified as a resident of Oklahoma must meet the following criteria for the current and immediately preceding year.

- A. The person must not have been claimed as an exemption for state and federal tax purposes by his or her nonresident parents.
- B. The person must be self-supporting as evidenced by having provided the majority of funds for his or her own upkeep.
- C. The person must have maintained a continuous residence in Oklahoma for the period set forth in Section 3.18.3 above.

3.18.10 Administration of Policy Statement

Each institution should designate the Admissions Officer or some other individual to be responsible for administration of the policy, and should make appropriate provision for a student's appeal of an adverse decision.

3.18.11 Tuition Waivers

Nothing in this policy precludes the waiving of fees or tuition for nonresidents by any institution upon authorization by the State Regents based on criteria other than residence status provided that the residence status classification will not be affected by any such waiver alone.

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