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ABSTRACT

A law was enacted during the session of the 1971 Washington State Legislature establishing definitions and procedures for residence classification. In the 1972 special session of the legislature, the 1971 residence law was amended to clarify several questions relative to the original legislation. At that time it was determined that the Council on Higher Education should be directed to develop uniform guidelines to assist in the administration of the residency law. The attached guidelines have been prepared in response to this legislative directive. Definitions of resident and nonresident students relative to the payment of tuition and fees are defined in the following sections: general definition; definition of domicile and residence; attending an educational institution and establishing domicile; qualified person (minor, emancipated minor, parent-qualified person); protection from loss of domicile; foreign students; change in residence classification; effective date of change in status; proof of domicile; route and method of appeal; and exceptions to residence classification regardless of age or domicile. (Author/Pg)

INTRODUCTION

A law was enacted during the Regular Session of the 1971 Legislature establishing definitions and procedures for residence classification. In the 1972 Special Session of the Legislature the 1971 residence law was amended to clarify several questions relative to the original legislation. At that time it was determined by both the Senate and House in separate resolutions that the Council on Higher Education should be directed to develop uniform guidelines to assist in the administration of the residency law. The attached guidelines have been prepared in response to this legislative directive.

Even though the guidelines serve to interpret and explain in greater detail major sections in the law, it is anticipated that individual residency cases will always necessitate some element of judgment by persons at the institutions of higher education involved in the administration of the program. The whole area of residence determination is a highly complex one and requires the careful review and assessment of evidence to support changes in residence status. In addition, the 1972 amendments to the residency law provide protection to the student by spelling out the process of appeal for any contested case.

The Council on Higher Education guidelines are only guidelines; specific technical or legal questions should be referred to the Attorney General of the individual institution. It is recommended that the colleges and universities continue work which has already begun on the development of a uniform application form for determination of residence classification. This will allow the Council to assemble and analyze information to more clearly understand the reasons for requests in change and the rate of change.

Definitions of resident and nonresident students relative to the payment of tuition and fees as required by R.C.W. 28B.15.01.

I. General definition of a resident student:

A resident student is a student who has been domiciled in the State of Washington for one year immediately prior to the commencement of the first day of the semester or quarter for which he/she has registered in any institution.

II. Definition of domicile and residence:

Domicile is a person's true, fixed and permanent home and place of habitation. It is a place where he intends to remain and to which he expects to return when he leaves, not intending to establish a new domicile elsewhere. A person can have but one domicile at any time, whereas a residence can be defined as a home which may be temporary or permanent. A person therefore could have several places of residence. Thus, as it relates to the classification of resident and nonresident students, the key issue is whether or not a person has established a domicile in Washington. Circumstances and procedures under which a person can establish a domicile are discussed throughout the guidelines and specifically in Section IX.

III. Attending an educational institution and establishing domicile:

Any period of time in which a person is enrolled as a student for more than six credit hours in an educational institution in Washington shall be considered as being enrolled for educational purposes. However, such student may qualify for resident tuition if he/she can provide satisfactory evidence to the institution that a bona fide domicile has been established in this state for other than educational purposes.

Generally, it is anticipated that a student who arrives in this state and immediately enrolls in an institution of higher education without any prior contact with this state intends to pursue the primary goal of education. It is highly doubtful, without substantial evidence to the contrary, that this person has established a permanent domicile in the State of Washington.

If, however, evidence submitted by the person makes it absolutely clear that he/she has in fact established permanent domicile in Washington, then a one-year requirement will be necessary prior to qualification for resident tuition and fees. The fulfillment of the one-year requirement begins at the point when the person moved to the State, not after an application has been filed for determination of domicile.

Provisions concerned with failure to establish domicile and factors to be considered in establishing domicile are discussed in Sections IX A and B. It should be emphasized that even though one or several criteria have been met or established as evidence for consideration in establishing domicile, this does not necessarily provide assurance that the student qualifies for payment of resident tuition and fees.

IV. Qualified person:

A person who is qualified to determine his own domicile is a person 18 years of age or older, or a person under 18 who is emancipated. An unemancipated minor shall be classified as a resident student only if his parents, or legally appointed guardian, or a person having legal custody, have established a domicile in the State for the requisite one-year period.

The domicile of any qualified person including a married woman, shall be determined according to the individual's situation and circumstances rather than by marital status or sex.

A. Minor:

A minor is a person who is under 18 years of age.

B. Emancipated minor:

An emancipated minor is a person whose parents have entirely surrendered the right to the care, custody, and earnings of any such minor and whose parents no longer in any way support or maintain the minor.

C. Parent-qualified person:

A parent of a minor student who does not have

legal custody but has a domicile in the State of Washington is qualified to have his/her minor child classified as a resident student.

V. Protection from loss of domicile:

- A. A person does not lose a domicile in the State of Washington by reason of residence in any state or country while a member of the civil or military service including the Peace Corps and Vista, of this state or the United States or while engaged in the navigation of the waters of this state or of the United States or of the high seas.
- B. Any resident student who remains in this state, while his/her parents who have previously been domiciled in this state, leave this state, shall be entitled to classification as a resident student so long as his/her attendance, except for summer sessions, at an institution of higher education in this state is continuous.

VI. Foreign students:

Any person who is not a citizen of the United States cannot establish a Washington domicile until the person is eligible and has applied for an immigration visa, unless such person is a dependent minor of a parent or legal guardian who is domiciled in the State of Washington.

VII. Change in residence classification:

A student wishing to apply for a change in classification shall do so in writing and file such a request with the institution. In any case involving an application for a change from nonresident to resident status the burden of proof rests upon the applicant.

VIII. Effective date of change in status:

Any change in classification must be based on written evidence filed with the institution. If a request for change in classification is approved, it will take effect on the first day of the term following the date such evidence was filed with the institution. In the case of programs which begin after the first published day of a term for that particular institution, the "first day of term" shall be interpreted to be the student's

first day of term. This provision applied mainly to programs in the community college system which begin intermittently throughout the regular term. If notification of the determination of change in residence status has not been given prior to the first day of the term, the student will be required to pay full nonresident tuition and fees or make other financial arrangements until notification of such determination is received. If a student's classification is changed from nonresident to resident after the term has begun and application was made prior to the beginning date of the term, the institution will refund to the student the difference between resident and nonresident fees.

IX. Proof of domicile:

In order to aid the institution in determining whether a student, parent, legally appointed guardian, or the person having legal custody of the student, is domiciled in the State of Washington the following factors have been identified in the residence law:

A. Failure to establish domicile:

Failure to register or to pay Washington State taxes or fees on a motor vehicle, mobile home, travel trailer, boat or any other item of personal property for which state registration or the payment of a state tax or fee is required, is conclusive evidence of the failure to establish a State of Washington domicile. Attendance at a Washington State institution of higher education with the aid of financial assistance from another state is conclusive evidence of the failure to establish a Washington domicile.

B. Establishment of domicile--factors to be considered:

A number of factors should be considered in determining if a person has established domicile in Washington. It should be remembered that approval of an application for resident status can only be granted after domicile has been determined and the one-year requirement prior to registration has been satisfied. In determining whether domicile

has been established, no single factor or combination of several factors, provide a guarantee or assurance that domicile has been achieved. Administrative judgment is required in considering each application on its own merits. Factors which may be considered in determination of domicile include:

1. Permanent, full-time employment in the State of Washington.
2. Registration to vote for officials in Washington.
3. Location of bank accounts.
4. Location of personal property and payment of taxes thereon.
5. Periods of time spent out of the State of Washington.
6. Maintenance of a home or continuous commitment for a rental unit in the form of a lease or other agreement.
7. Possession of a professional license to practice in Washington.
8. Automobile registration.
9. Washington State driver's license.

X. Route and method of appeal:

Any student wishing to appeal a determination of classification shall be entitled to do so under the procedures prescribed in the Administrative Procedures Act for Higher Education (R.C.W. 28B.19).

XI. Exceptions to residence classification regardless of age or domicile:

- A. Any person who is employed not less than 20 hours per week in an institution of higher education plus the children and spouses of such person.
- B. Military personnel and federal employees who are residing or stationed within the State of Washington, the children and spouses of such military personnel and federal employees.
- C. All veterans as defined in R.C.W. 41.04.005 whose final permanent duty station was in the State of Washington so long as such veteran is receiving federal vocational or educational benefits conferred by virtue of his military service.