

### **3359-60-04.1 Residency requirements.**

- (A) Payment of nonresident tuition surcharge is required by any student who does not qualify as a permanent resident of Ohio as defined by the Ohio board of regents, rule 3333-1-10 of the Administrative Code. This rule is fully incorporated by reference as if written herein and is effective for all university of Akron students.
- (B) Ohio student residency for state subsidy and tuition surcharge purposes ~~as~~ is defined by the Ohio board of regents, rule 3333-1-10 of the Administrative Code.
- (C) Applying for a change in residency status.
  - (1) Students who wish to apply for a change in residency status should complete an Ohio residency status form and return it, along with any necessary supporting documentation, to the office of the university registrar.
    - (a) The Ohio residency status form must be submitted and any change approved prior to the first day of the academic term in which the student desires the reclassification to be effective.
    - (b) Retroactive residency determinations cannot be made for tuition surcharge purposes.
  - (2) A student has the burden of persuasion by clear and convincing proof that the student qualifies as a bona fide resident. Either or both the residency officer or the committee on residence status may require the student to submit evidence in support of the statements made on the application for residence status.
  - (3) The university residency officer is responsible for reviewing pertinent documents and making a determination as to classification. Thereafter students shall be classified as bona fide residents or nonresidents at the time of registration for each term or session based upon this rule and rule 3333-1-10 of the Administrative Code.
  - (4) Neither the residency officer nor the committee on residence status shall be bound by the usual common law or statutory rules of evidence nor by any technical or formal rules of procedure as they consider students' applications for a change in residency status.
  - (5) Both the residency officer and the committee on residence status may consider any relevant evidence in support of the student's claim or in opposition to it, may exclude evidence that is irrelevant, cumulative, or is lacking in substantial probative effect.

- (D) Appealing a residency determination.
- (1) Students who disagree with the residency officer's residency determination may appeal the decision by submitting a letter of appeal to the university registrar. The student may request in the letter of appeal to appear personally before the committee and may employ counsel at his or her expense.
  - (2) The university registrar shall transmit this letter of appeal to the chair of the committee on residence status, which shall conduct a hearing on the merits of the previously submitted validation of Ohio residency status form.
    - (a) The committee on residence status shall be comprised of the university registrar, residency officer, the university auditor, and a representative from the provost's office.
  - (3) The decision of the committee on residence status shall be final.
  - (4) The committee on residence status may make rules of procedure consistent with this rule.
- (E) Effect of nonresident status. If a student's proper status is that of a nonresident, the student shall pay nonresident tuition and interest at the rate of six percent per annum on the unpaid balance. A student who knowingly submits a false claim or knowingly gives false evidence in support of a claim commits an offense against the university of Akron and may be subject to disciplinary procedures.
- (F) For purposes of residency determination, enrollment of 12 credits or more will be considered full time for undergraduate students and 9 credits or more will be considered full time for graduate students.
- (G) The university registrar may implement processes and procedures as necessary to carry out the responsibilities and requirements of this rule and shall post such processes and procedures on the web.
- ~~(A) Intent and authority.~~
- ~~(1) It is the intent of the Ohio board of regents 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 Ohio board of regents by section 3333.31 of the Revised Code.~~

~~(B) — Definitions. For the purposes of this rule:~~

- ~~(1) — A “resident of Ohio for all other legal purposes” 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 welfare benefits, 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.~~
- ~~(3) — An “institution of higher education” as used in the rule shall mean any university, community college, technical institute or college, general and technical college, medical college or private medical or dental college which receives a direct subsidy from the state of Ohio.~~
- ~~(4) — For the purpose of determining residency for tuition surcharge purposes at Ohio’s state assisted colleges and universities, “domicile” is a person’s permanent place of abode; there must exist a demonstrated intent to live permanently in Ohio, and a legal ability under federal and state law to reside permanently in the state. For the purpose of this policy, only one domicile may be maintained at a given time.~~
- ~~(5) — 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.~~

~~(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 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.~~

~~(D) Additional criteria which may be considered in determining residency for the purpose 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 state welfare benefits;~~

~~(d) If a person has an Ohio driver's license and/or car 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 welfare benefits, 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 welfare benefits (see paragraph (D)(2)(a) of this rule).~~

~~(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.~~
- (F) ~~Procedures:~~
- (1) ~~A dependent person classified as a resident of Ohio for these purposes 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 as 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) ~~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.~~
- (4) ~~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.~~

- ~~(5) — Any institution of higher education charged with reporting student enrollment to the Ohio board of regents 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.~~