

Ohio Administrative Code 3333-1-10 Ohio student residency for state subsidy and tuition surcharge purposes.

(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 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.

(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 by at least one parent or guardian as a dependent on that person'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, or any similar program as determined by the Ohio board of regents; or

(b) An elected or appointed public official for a period of time not exceeding twenty-four consecutive months.

(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.

(D) Additional criteria which may be considered by residency officers 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).

(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.

(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 percent 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 who is domiciled in Ohio, 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 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.

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