

Title 4 - Codification of Board Policy Statements

Chapter 15

REGULATIONS FOR DETERMINING RESIDENCY AND TUITION CHARGES

| | | |
|--------------------|---|-----------|
| Section 1. | Purpose | 2 |
| Section 2. | Definitions | 2 |
| Section 3. | Tuition..... | 4 |
| Section 4. | Resident Students | 6 |
| Section 5. | Admission to Medical School | 8 |
| Section 6. | Admission to William S. Boyd School of Law..... | 8 |
| Section 7. | Admission to UNLV School of Dental Medicine..... | 9 |
| Section 8. | Reclassification of Nonresident Status..... | 9 |
| Section 9. | Administration of the Regulations..... | 11 |
| Section 10. | Uniformity of Decisions..... | 12 |

Section 1. Purpose

These regulations have been enacted to provide uniform rules throughout the Nevada System of Higher Education (the "System") and all member institutions thereof, for the purpose of determining whether students shall be classified as resident students or nonresident students for tuition charges.

(B/R 5/95)

Section 2. Definitions

For the purposes of these regulations, the terms stated below shall have the following meanings:

1. "Alien" means a person who is not a citizen of the United States of America.
2. "Armed Forces of the United States" means the Army, the Navy, the Air Force, the Marine Corps and the Coast Guard, on active duty and does not include the National Guard or other reserve force, with the exception of active members of the Nevada National Guard.
3. "Clear and convincing evidence" means evidence that is clear in the sense that it is not ambiguous, equivocal or contradictory and convincing in the sense that it is of such a credible, reliable, authentic and relevant nature as to evoke confidence in the truth of it.
4. "Continuously enrolled" means enrollment within a normal academic year for which continuous enrollment is claimed. A person need not attend summer sessions or other between-semester sessions in order to be continuously enrolled.
5. "Date of matriculation" means the first day of instruction in the semester or term in which enrollment of a student first occurs, except that at the University of Nevada School of Medicine it means the date that a notice of admittance is sent to a student, and at the community colleges it excludes correspondence courses and community service courses that are not state funded. A person who enrolled in an institution of the NSHE but withdrew enrollment during the 100% refund period may, for the purposes of these regulations, be deemed not to have matriculated and any determination concerning residency status shall be voided until such time as the person again enrolls at a System institution.
6. "Dependent" means a person who is not financially independent and is claimed as an exemption for federal income tax purposes under Section 152 of the Internal Revenue Code (*26 U.S.C. § 152*) by another person for the most recent tax year.
7. "Family" means the natural or legally adoptive parent or parents of a dependent person, or if one parent has legal custody of a dependent person, that parent.
8. "Financially independent" means a person who has not been and will not be claimed as an exemption for federal income tax purposes under Section 152 of the Internal Revenue Code (*26 U.S.C. § 152*) by another person, except his or her spouse, for the most recent tax year.
9. "Graduate Fellow" means a graduate student receiving a stipend that is treated as a scholarship with no specific duties required for the award.

10. "Most recent tax year" means the income tax return submitted for the prior income year.
11. "Legal guardian" means a court-appointed guardian of a dependent person, who was appointed guardian at least twelve (12) months immediately prior to the dependent person's date of matriculation and for purposes other than establishing the dependent person's residence.
12. "Nonresident" means a person who is not a resident.
13. "Objective evidence" means evidence that is verifiable by means other than a person's own statements.
14. "Relocated," means evidence of permanent, full-time employment in Nevada or establishment of a business in and living in Nevada prior to the date of matriculation.
15. "Residence" a term which for the purposes of these regulations is synonymous with the legal term "domicile," and means that location in which a person is considered to have the most settled and permanent connection, intends to remain and intends to return after any temporary absences. Residence results from the union of a person's physical presence in the location with objective evidence of an intent to remain at that location for other than a temporary purpose.
16. "Resident" means a person who has established a bona fide residence in the State of Nevada with the intent of making Nevada the person's true, fixed and permanent home and place of habitation, having clearly abandoned any former residence and having no intent to make any other location outside of Nevada the person's home and habitation. The term also includes a member of the Armed Forces of the United States who has previously established a bona fide residence in the State of Nevada, but who has been transferred to a military posting outside of Nevada while continuing to maintain a bona fide residence in Nevada. When residence for a particular period is required under these regulations, this shall mean that the person claiming residence for the period must be physically present and residing in Nevada during all of the period required, excluding temporary, short-term absences for business or pleasure.
17. "Returning student" means a student who re-enrolls after a break in enrollment of one of more semesters.
18. "Spouse" means a person's partner in legal marriage or a person's domestic partner if the domestic partnership is registered with the Office of the Nevada Secretary of State.
19. "Student" means a person who is enrolled at an institution of the NSHE.
20. "Tuition" means a monetary charge assessed against nonresident students, which is in addition to registration fees, or other fees assessed against all students.

(B/R 3/16)

Section 3. Tuition

Tuition shall be charged to nonresident students except as otherwise provided in this section. Tuition shall not be charged:

1. To current enrollees or graduates of a Nevada high school.
2. To returning students who had established an exemption from tuition charges at any NSHE institution in their prior enrollment period.
3. To community college students in community service courses that are not state funded.
4. To a professional employee, classified employee, postdoctoral fellow, resident physician, or resident dentist of the NSHE currently employed at least half time, or the spouse or dependent child of such an employee.
5. To a graduate student enrolled in the NSHE and employed by the System in support of its instructional or research programs, only during the period of time of such employment.
6. To graduate fellows.
7. To a member of the Armed Forces of the United States, on active duty, stationed in Nevada as a result of a permanent change of duty station pursuant to military orders, or a person whose spouse, parent or legal guardian is a member of the Armed Forces of the United States stationed in Nevada as a result of a permanent change of duty station pursuant to military orders, including a Marine currently stationed at the Marine Corps Mountain Warfare Training Center at Pickel Meadows, California. If the member ceases to be stationed in Nevada, reside in Nevada, be stationed in Pickel Meadows, California, or be domiciled in Nevada, the spouse, child or legal guardian of the member shall not be charged tuition if the spouse, child or legal guardian of the member was enrolled prior to the reassignment and remains continuously enrolled at an NSHE institution.
8. To a veteran of the Armed Forces of the United States who was honorably discharged and who on the date of discharge was on active duty stationed in Nevada, including a marine stationed at the Marine Corps Mountain Warfare Training Center at Pickel Meadows, California, pursuant to military orders.
9. Except as otherwise provided in Subsection 8 of this Section, to a veteran of the Armed Forces of the United States who was honorably discharged within the five years immediately preceding the date of matriculation of the veteran at any NSHE institution.
10. To a student enrolled in the University Studies Abroad Consortium or in the National Student Exchange Program, only during the period of time of such enrollment. Time spent in Nevada while a student is in the National Student Exchange Program shall not be counted towards satisfying the residence requirement of Section 4, Paragraph 2 below, nor shall enrollment through the Consortium or the Exchange Program be included in the "date of matriculation" for evaluation of Nevada residency.

11. To members of federally recognized Native American tribes, who do not otherwise qualify as Nevada residents, and who currently reside on tribal lands located wholly or partially within the boundaries of the State of Nevada.
12. To a covered individual, as defined by this subsection, who is living in Nevada.
 - a. This subsection complies with Section 702 of the Veterans Access, Choice, and Accountability Act of 2014 (Approval of Courses of Education provided by Public Institutions of Higher Learning for Purposes of All-Volunteer Force Educational Assistance Program and Post-9/11 Educational Assistance Conditional on In-State Tuition Rate for Veterans), as codified under 38 U.S.C. 3679(c), including but not limited to amendments under Public Law 114-315. The provisions contained herein must be interpreted to comply with the applicable federal provisions and definitions.
 - b. To affirm a covered individual is living in Nevada, institutions shall only require the covered individual to:
 - i. Provide a physical address in Nevada; and
 - ii. Sign a statement affirming the covered individual is living in Nevada and intends to become a bona fide Nevada resident.
 - c. An institution shall not require a covered individual to complete a residency form or application.
 - d. A covered individual must provide:
 - i. Either a DD-214 (Discharge Orders) or a DD-1300 (Report of Casualty) or similar documentation verifying the date of discharge or casualty; and
 - ii. A Certificate of Eligibility issued by the United States Department of Veterans Affairs or similar documentation verifying eligibility.
 - e. For purposes of this subsection, “covered individual” means:
 - i. A veteran who:
 - a) Enrolls within three years from his or her discharge or release from a period of not fewer than 90 days of service in the active military, naval, or air service, including the reserve components thereof and the National Guard; and
 - b) Is pursuing a course of education with educational assistance under Chapter 30 (All-Volunteer Force Educational Assistance Program) or Chapter 33 (Post-9/11 Veterans Educational Assistance Act) of Title 38, United States Code¹;
 - ii. An individual using transferred benefits under the Post-9/11 Veterans Educational Assistance Act² and:
 - a) Who enrolls within three years of the transferor's discharge or release from a period of active-duty service of 90 days or more; or

¹ Includes the Montgomery GI Bill – Active Duty (Chapter 30 of Title 38, United State Code) and the Post-9/11 GI Bill (Chapter 33 of Title 38, United State Code).

² Chapter 33 of Title 38 of the United States Code. 38 U.S.C. § 3319 sets forth the authority to transfer unused education benefits to family members.

- b) The transferor is a member of the uniformed services who is serving on active duty;
- iii. An individual using benefits under the Marine Gunnery Sergeant John David Fry Scholarship ("Fry Scholarship")³; or
- iv. An individual using benefits under the Survivors' and Dependents' Educational Assistance (DEA) program⁴ and who enrolls within three years of the transferor's discharge from or service member's death in the line of duty following a period of active-duty service of 90 days or more.

(B/R 4/17)

Section 4. Resident Students

Except as otherwise provided in Section 3 of this chapter, as supported by clear and convincing evidence, any person who meets any one of the following categories shall be deemed a resident student for tuition purposes:

1. Except as provided otherwise in this section, a dependent person whose spouse, family or legal guardian is a bona fide resident of the State of Nevada for at least 12 months immediately prior to the date of matriculation. Some or all of the following pieces of objective evidence of Nevada residency may be required with the student's application for enrollment and must be issued at least 12 months prior to the date of matriculation:
 - a. Evidence of Nevada as the spouse's, parents' or legal guardian's permanent, primary residence at the date of matriculation (examples of evidence include home ownership, a lease agreement, rent receipts, utility bills).
 - b. The student's birth certificate or proof of legal guardianship.
 - c. The spouse's, parents' or legal guardian's tax return for the most recent tax year, which indicates the student claimed as a dependent.
 - d. A Nevada driver's license or Nevada identification card for the spouse, parent or legal guardian.
 - e. A Nevada vehicle registration for the spouse, parent or legal guardian.
 - f. Nevada voter registration for the spouse, parent or legal guardian.

³ The Fry Scholarship is educational assistance for an individual who is the child or spouse of a person who, on or after September 11, 2001, dies in line of duty while serving on active duty as a member of the Armed Forces to educational assistance under the Post-9/11 Veterans Educational Assistance Act (See 38 U.S.C. § 3311(b)(9)).

⁴ The Survivors' and Dependents' Educational Assistance (DEA) Program under Chapter 35 of Title 38 of the United States Code sets forth education and training opportunities to eligible dependents of veterans who are permanently and totally disabled due to a service-related condition or of veterans who died while on active duty or as a result of a service-related condition.

- g. Evidence that the student's spouse, family, or legal guardian has relocated to Nevada for the primary purpose of permanent full-time employment in Nevada or to establish a business in and living in Nevada (examples of evidence include a letter from the employer or copy of business license).
- 2. Except as provided otherwise in this section, a financially independent person whose family resides outside the State of Nevada, if the person himself or herself is a bona fide resident of the State of Nevada for at least 12 months immediately prior to the date of matriculation. Some or all of the following pieces of objective evidence of Nevada residency may be required with the student's application for enrollment and must be issued at least 12 months prior to the date of matriculation:
 - a. Evidence of 12 months physical, continuous presence in the State of Nevada prior to the date of matriculation. Examples of evidence include a lease agreement, rent receipts, utility bills.
 - b. The student's tax return for the most recent tax year, indicating a Nevada address. If no federal tax return has been filed by the student because of minimal or no taxable income, documented information concerning the receipt of such nontaxable income. If the student is under the age of 24, a copy of the parent's or legal guardian's tax return for the most recent tax year that indicates the student was not claimed as a dependent.
 - c. The student's Nevada driver's license or Nevada identification card.
 - d. The student's Nevada vehicle registration.
 - e. The student's Nevada voter registration.
 - f. Evidence that the student, and/or the person's spouse, has relocated to Nevada for the primary purpose of permanent full-time employment in Nevada or to establish a business in and living in Nevada. Examples of evidence include a letter from the employer or copy of business license.
- 3. A former member of the Armed Forces of the United States who was relocated from Nevada as a result of a permanent change of duty station pursuant to military orders will be considered a Nevada resident for tuition purposes under the following conditions:
 - a. He/She was a resident of Nevada prior to leaving the state as a member of the Armed Forces;
 - b. He/She maintained his/her Nevada residency while a member of the Armed Forces; and
 - c. He/She returns to the State of Nevada within one year of leaving the Armed Forces.

It will be necessary for the student to supply documentation in support of each of these conditions, e.g., driver's license, property ownership, evidence of absentee voting, etc.
- 4. A graduate of a Nevada high school

5. A financially independent person who has relocated to Nevada for the primary purpose of permanent full-time employment in Nevada or to establish a business in and living in Nevada.
6. A financially dependent person whose spouse, family, or legal guardian has relocated to Nevada for the primary purpose of permanent full-time employment in Nevada or to establish a business in and living in Nevada.
7. Licensed educational personnel employed full-time by a public school district in the State of Nevada, or the spouse or dependent child of such an employee.
8. A teacher who is currently employed full-time by a private elementary, secondary or postsecondary educational institution whose curricula meet the requirements of NRS 394.130, or the spouse or dependent child of such an employee.
9. An alien who has become a Nevada resident by establishing bona fide residence in Nevada and who holds a permanent immigrant visa, has been granted official asylum or refugee status, has been issued a temporary resident alien card, holds an approved immigration petition as a result of marriage to a U.S. citizen, or is a nonimmigrant alien admitted to the U.S. with a visa classification under which the holder is eligible to establish domicile in the U.S. An alien holding another type of visa shall not be classified as a resident student pursuant to this subsection, except as may be required by federal law or court decisions and upon due consideration of evidence of Nevada residence. The vice chancellor for academic affairs shall establish procedures governing visa classifications for the purpose of determining eligibility for classification as a resident student.

(B/R 3/16)

Section 5. Admission to Medical School

An applicant for admission to the University of Nevada School of Medicine who has been a resident of Nevada for at least twelve (12) months immediately prior to the last day for filing an application for admission to the School (November 1 of each year) shall be classified as a resident of Nevada for the purposes of being considered for admission to the University of Nevada School of Medicine.

(B/R 5/95)

Section 6. Admission to William S. Boyd School of Law

An applicant for admission to the William S. Boyd School of Law at UNLV who has been a resident of Nevada for at least twelve (12) months immediately prior to the last day for filing an application for admission to the School shall be classified as a resident of Nevada for the purposes of being considered for admission to the William S. Boyd School of Law at UNLV.

(B/R 9/97)

Section 7. Admission to UNLV School of Dental Medicine

An applicant for admission to the School of Dental Medicine at UNLV who has been a resident of Nevada for at least twelve (12) months immediately prior to the last day of filing an application for admission to the School (March 1st of each year) shall be classified as a resident of Nevada for the purpose of being considered for admission to the School of Dental Medicine at UNLV. (B/R 8/01)

Section 8. Reclassification of Nonresident Status

There is a rebuttable presumption that a nonresident attending an institution of the NSHE is in the State of Nevada for the primary or sole purpose of obtaining an education. Therefore, a nonresident who enrolls in an institution of the System shall continue to be classified as a nonresident student throughout the student's enrollment, unless and until the student demonstrates that his or her previous residence has been abandoned and that the student is a Nevada resident. Each student seeking reclassification from nonresident to resident student status must satisfy the conditions described in Subsections 1 through 3.

1. Application and Written Declaration

An application for reclassification may be submitted under the provisions of this section if the material facts of a student's residency, or the residency of the student's spouse, parent or legal guardian, have substantially changed following matriculation. The student must apply in writing to the appropriate office of the institution for reclassification to resident student status. The application must include a written declaration of intent to relinquish residence in any other state and to certify to the establishment of bona fide residence in Nevada. A declaration form prescribed by the Chancellor and approved by the Board shall be utilized by each institution. The filing of a false declaration will result in the payment of nonresident tuition for the period of time the student was enrolled as a resident student and may also lead to disciplinary sanctions under Title 2, Chapter 10 of the NSHE Code. Disciplinary sanctions include a warning, reprimand, probation, suspension or expulsion.

2. Bona Fide Residence and Intent to Remain in Nevada

The student, or the parents or legal guardian of the student, must document continuous physical presence as a Nevada resident for at least 12 months immediately prior to the date of the application for residency reclassification and must present clear and convincing, objective evidence of intent to remain a Nevada resident. No fewer than four of the following pieces of objective evidence must be submitted with the application for residency reclassification to the satisfaction of the institution. Any evidence or documentation associated with these pieces of evidence must be issued 12 months prior to the first day of the semester for which reclassification is requested.

- a. Ownership of a home in Nevada;
- b. Lease of living quarters in Nevada;
- c. Utility receipts for the home or leased quarters;
- d. Nevada driver's license or Nevada identification card;
- e. Nevada vehicle registration;
- f. Nevada voter registration;

- g. Evidence of employment in Nevada such as a letter from employer on employer's letterhead, W-2 income tax form, or pay stubs;
- h. A license for conducting a business in Nevada;
- i. Admission to a licensed practicing profession in Nevada;
- j. Registration or payment of taxes or fees on a home, vehicle, mobile home, travel trailer, boat or any other item of personal property owned or used by the person for which state registration or payment of a state tax or fee is required;
- k. A Nevada address listed on Selective Service registration;
- l. Evidence of active savings or checking accounts in Nevada financial institutions;
- m. Evidence of summer term enrollment at a NSHE institution within the prior academic year; or
- n. Any other evidence that objectively documents intent to abandon residence in any other state and to establish Nevada residence.

3. Financial Status

An application for reclassification must include the following objective evidence of financial status:

- a. If financially independent, a true and correct copy of the student's federal income tax return for the most recent tax year showing a Nevada address must be submitted with the application for residency reclassification. If the student is under the age of 24, a copy of the parent's or legal guardian's tax return for the most recent tax year must be submitted that indicates the student was not claimed as a dependent. If no federal tax return has been filed because of minimal or no taxable income, documented information concerning the receipt of such nontaxable income must be submitted.
 - b. If financially dependent, a true and correct copy of the spouse, parent or legal guardian's federal income tax return for the most recent tax year showing a Nevada address must be submitted and must indicate the student filed jointly with a spouse or was claimed as a dependent. Students may also be required to provide documentation such as a birth certificate, proof of legal guardianship, or a marriage certificate to prove the relationship. A dependent person whose parent or legal guardian is a nonresident is not eligible for reclassification to resident student status.
4. The presentation by a person of one or more items of evidence as indicia of residence is not conclusive on the issue of residency. Determinations of residence shall be made on a case-by-case basis and the evidence presented shall be given the weight and sufficiency it deserves, after taking all available evidence into consideration.

5. Residence in a neighboring state other than Nevada is a continuing qualification for enrollment in the WICHE Western Undergraduate Exchange program at a NSHE institution and in a tuition discount program approved by the Board of Regents pursuant to Title 4, Chapter 17, Section 13. A student who was initially enrolled in a System institution under the WICHE Western Undergraduate Exchange program or a tuition discount program approved by the Board shall not be reclassified as a resident student following matriculation. A nonresident student who subsequently disenrolls from the WICHE Western Undergraduate Exchange program or a tuition discount program approved by the Board and pays full nonresident tuition for at least 12 months may apply for reclassification to resident student status. An application for reclassification may be submitted under the provisions of this section if the material facts of a dependent student's residency as it relates the parents' or legal guardian's residency, have substantially changed following matriculation.
6. When a student has been reclassified to resident student status, the reclassification shall become effective at the registration period in the System institution immediately following the date the student receives notice of the reclassification decision.
7. No reclassification under these regulations shall give rise to any claim for refund of tuition already paid to the NSHE.
(B/R 3/17)

Section 9. Administration of the Regulations

Each institution of the NSHE shall designate an appropriate office to implement and administer these regulations.

1. Each designated office shall make the initial decision on the resident or nonresident student status of persons enrolling in the institution. If a verifiable error occurs when the initial decision is made to classify a student as a nonresident for tuition purposes, the designated office shall correct the decision and reclassify the student as a resident for tuition purposes without requiring the student to apply for residency reclassification.
2. Each designated office shall make the initial decision on applications for reclassification from nonresident to resident student status.
3. The president of each System institution shall establish an appellate procedure under which a person may appeal decisions of the designated office concerning tuition or status as a resident or nonresident student to an appellate board.
 - a. A person may appeal a decision of the designated office to the appellate board within thirty (30) days from the date of the decision of the office. If an appeal is not taken within that time, the decision of the designated office shall be final.
 - b. The appellate board shall consider the evidence in accordance with the standards and criteria of these regulations and shall make a decision that shall be final. No further appeal beyond the appellate board shall be permitted.

4. In exceptional cases, where the application of these regulations works an injustice to an individual who technically does not qualify as a resident student, but whose status, either because of the residence of the student or his family, is such as to fall within the general intent of these regulations, then the appellate board shall have the authority to determine that such a student be classified as a resident student. It is the intent of this provision that it applies only in the infrequent, exceptional cases where a strict application of these regulations results, in the sole judgment of the appellate board, in an obvious injustice.
(B/R 9/13)

Section 10. Uniformity of Decisions

The decision of an institution of the NSHE to grant resident student or nonresident student status to a person shall be honored at other System institutions, unless a person obtained resident student status under false pretenses or the facts existing at the time resident student status was granted have significantly changed. Students granted nonresident student status by an institution retain the right to apply for reclassification under the provisions of the chapter.
(B/R 2/05)