

BOARD OF HIGHER EDUCATION
REQUEST FOR COMMITTEE AND BOARD ACTION

COMMITTEE: Fiscal Affairs and Administrative Policy **NO.:** FAAP 07-24

COMMITTEE DATE: April 12, 2007

BOARD DATE: April 19, 2007

RESIDENCY STATUS FOR TUITION CLASSIFICATION PURPOSES

MOVED: Pursuant to the provisions of Chapter 15A, Section 9(t), the Board of Higher Education revokes all existing rules, regulations, and policies defining resident of the Commonwealth for the purposes of tuition classification, and adopts the attached system-wide Board of Higher Education policy and form governing "Residency Status For Tuition Classification Purposes," effective July 1, 2007.

Authority: Massachusetts General Laws Chapter 15A, Section 9(t).

Contact: Joseph Sullivan, General Counsel

Background

Presently there are three separate policies for determining residency status for tuition classification purposes. There is one policy for the University, one for the state colleges and one for the community colleges. Adoption of Board vote FAAP 07-24 will result in the creation of one uniform policy for the system of public higher education. The establishment of one policy will ensure a more uniform administration of the tuition classification process.

**BOARD OF HIGHER EDUCATION
RESIDENCY STATUS FOR TUITION CLASSIFICATION PURPOSES**

(Rules and Regulations Governing the Residency Status of Student for Tuition Purposes)

These rules and regulations apply to the classification of students at the public institutions of higher education as Massachusetts or non-Massachusetts residents for tuition and fee purposes.

Part I. *Definitions*

- 1.1 “Board of Trustees” shall mean, the Board of Trustees of an institution.
- 1.2 “Continuous attendance” shall mean, enrollment at an institution for the normal academic year in each calendar year, or the appropriate portion or portions of such academic year as prescribed by the Board of Trustees or under its authority.
- 1.3 “Eligible person” shall mean, a U.S. citizen, lawful immigrant, permanent resident, or holder of another legal immigration status, who has satisfied the durational residency requirement and can demonstrate his/her intent to remain in Massachusetts.
- 1.4 “Emancipated person” shall mean, a person who has attained the age of 18 years and is financially independent of his or her parents, or, if under 18 years of age, (a) whose parents have entirely surrendered the right to the care, custody, and earnings of such person and who no longer are under any legal obligation to support or maintain such person; or (b) a person who is legally married; or (c) a person who has no parent. If none of the aforesaid definitions applies, said person shall be deemed an “unemancipated person.”
- 1.5 “Institution” shall mean, the public college or university at which any person is or seeks to be enrolled as a student.
- 1.6 “Proof of Emancipation” shall be demonstrated through submission of evidence including, but not limited to:
 - (a) Birth certificate or any other legal document that shows place and date of birth; (b) Legal guardianship papers – court appointment and termination must be submitted; (c) Statement of the person, his or her parent(s), guardian(s), or others certifying no financial support; (d) Certified copies of federal and state income tax returns filed by the person and his or her parent(s); (e) Copies of applications for federal financial aid; or (f) Where none of the foregoing can be provided, an affidavit of the emancipated person in explanation thereof and stating fully the grounds supporting the claim of emancipation.
- 1.7 “Parent” shall mean,
 - a) the person’s father and mother, jointly;

- b) if the person's father is deceased, the person's mother; if the person's mother is deceased, the person's father;
- c) if a legal guardian has been appointed by a court having jurisdiction, the legal guardian;
- d) if neither the father nor mother is living and no legal guardian has been appointed, the person who then stands *in loco parentis* to the person;
- e) if the father and mother are divorced, separated or unmarried, the parent who has been awarded legal custody of the person; or, if legal custody has not been awarded, the parent with whom the person lives.

With respect to any adopted student, the word "adoptive" should be inserted before the words "father" and "mother" wherever used.

- 1.8 "Reside," "residency," or "resident" shall mean "domicile," i.e., a person's true fixed and permanent home or place of habitation, where he or she intends to remain permanently.

Part II. *Classification*

- 2.1 For the purpose of assessing tuition and fees, each student shall be classified as a "Massachusetts resident" or a "Non-Massachusetts resident." At the University and the state colleges, an eligible person shall be classified as a Massachusetts resident if he or she (or the parent of an unemancipated student) shall have resided in the Commonwealth of Massachusetts for purposes other than attending an educational institution (including a private educational institution) for twelve months immediately preceding the student's entry or reentry as a student. At the community colleges, a person shall be classified as a Massachusetts resident if he or she (or the parent of an unemancipated student) shall have resided in the Commonwealth of Massachusetts for purposes other than attending an educational institution (including a private educational institution) for six months immediately preceding the student's entry or reentry as a student.
- 2.2 Physical presence for this entire twelve-month or six-month period need not be required as long as the conduct of an individual, taken in total, manifests an intention to make Massachusetts his or her permanent dwelling place. However, residency is not acquired by mere physical presence in Massachusetts while the person is enrolled in an institution of higher education.

Part III. *Determination of Residency*

- 3.1 Proof of Residency
- a) Each case will be decided on the basis of all facts submitted with qualitative rather than quantitative emphasis. A number of factors are required for residency to determine the intention of the person to maintain permanent residence in

Massachusetts. No single indicium is decisive. The burden of proof rests on the student seeking classification as a Massachusetts resident.

- b) The following shall be indicia of residence:
- 1) For unemancipated persons, the residency of parents, having custody, within Massachusetts;
 - 2) Certified copies of federal and state income tax returns;
 - 3) Permanent employment in a position not normally filled by a student;
 - 4) Reliance on Massachusetts sources for financial support;
 - 5) Possession of a Massachusetts high school diploma;
 - 6) Continuous physical presence in Massachusetts during periods when not an enrolled student;
 - 7) Military home of record; and
 - 8) All other material of whatever kind or source which may have a bearing on determining residency.

3.2 Eligibility

- a) The following individuals shall be eligible for in-state tuition:
- 1) Any person who is registered at an institution as a Massachusetts resident shall be eligible for continued classification as a Massachusetts resident for tuition purposes (until attainment of the degree for which he or she is enrolled) during continuous attendance at the institution.
 - 2) The spouse of any person who is classified or is eligible for classification as a Massachusetts resident is likewise eligible for classification as a Massachusetts resident. This provision will not apply in the case of a spouse in the United States on a non-immigrant visa.
 - 3) A person who is a lawful immigrant or permanent resident of the United States (or is eligible to apply and has applied for such status) is eligible to be considered for Massachusetts residency for tuition purposes provided that he/she meets the same requirements for establishing residency in Massachusetts as are required of a United States citizen. Non-citizens who are in (or who are eligible to apply and who have applied for) refugee/asylum status are likewise eligible to be considered for

Massachusetts residency for tuition purposes provided that they meet the same requirements for establishing residency in Massachusetts as are required of a United States citizen. All non-citizens must provide appropriate United States Citizenship and Immigration Services documentation to verify their status.

- 4) Those students whose higher education pursuits are funded by the Department of Institutional Assistance, the Massachusetts Rehabilitation Commission, or any of the other Commonwealth of Massachusetts public assistance programs.
 - 5) A member of the Armed Forces of the United States who is stationed in Massachusetts on active duty pursuant to military orders, his or her spouse and dependent children. A person does not gain or lose in state status solely by reason of his or her presence in any state or country while a member of the Armed Forces of the United States.
 - 6) Full time faculty, professional staff, and classified staff employees of the public higher education system and their spouses and dependent students.
- b) A person having his or her residency elsewhere than in Massachusetts shall not be eligible for classification as a Massachusetts resident for tuition purposes, except as herein provided.

Part IV. *Appeals and Reclassification*

- 4.1 **Reclassification:** A student may at any time request the institution to reclassify him or her as a Massachusetts resident if the factual basis for his or her classification as a non-resident has changed. To do so, the student shall submit a “Residency Reclassification Form” to the appropriate office of the institution for its review and final classification as a resident or a non-resident student.
- 4.2 **Appeals:** A student or applicant may appeal the institution’s final decision to deny his or her classification (or reclassification) as a non-resident by filing an appeal through the appeal process established by the institution. The decision on appeal is final and may not be appealed further.
- 4.3 **Tuition Deadlines:** All deadlines for the payment of tuitions, fees, and other financial obligations to the institution remain in force during the pendency of any request for reclassification or any appeal.
- 4.4 **Retroactive Effect:** Any change in a student’s classification as the result of a request for reclassification or an appeal will be retroactive only to the beginning of the semester during which the institution makes the final decision to reclassify the student.

Part V. Penalties

Misrepresentation in or omission from any evidence submitted with respect to any fact which, if correctly or completely stated, would be grounds to deny classification as a Massachusetts resident, shall be cause for exclusion or expulsion from or other disciplinary action by the institution.

Part VI. Miscellaneous

- 6.1 Each institution may adopt supplementary rules governing any procedures, deadlines, and related matters appropriate for the implementation of this policy.
- 6.2 The provisions of this policy shall apply to the classification of a student as the resident of any New England state for purposes of determining his or her eligibility for tuition benefits through the New England Board of Higher Education.

MASSACHUSETTS PUBLIC HIGHER EDUCATION INSTITUTIONS
IN-STATE TUITION ELIGIBILITY FORM

Last Name _____ First Name _____ MI _____

Street Address _____ City _____ State _____ Zip Code _____

SSN# or Student I.D. Number _____ Date of Birth _____

Are you a U.S. Citizen? _____ Yes _____ No. If you are not a U.S. Citizen, please state your immigration status in detail: _____

Please check the in-state or reduced tuition eligibility category that applies to you:

_____ *For Community College applicants:* I have been a Massachusetts resident for six (6) continuous months and intend to remain here.

_____ *For State College and UMass applicants:* I have been a Massachusetts resident for twelve (12) continuous months and intend to remain here.

As proof of my intent to remain in Massachusetts, I possess at least 2 of the following documents, which I shall present to the institution upon request. These documents are dated within one (1) year of the start date of the academic semester for which I seek to enroll (except possibly for my high school diploma). The institution reserves the right to make any additional inquiries regarding the applicant's status and to require submission of any additional documentation it deems necessary. **Please check-off those documents you possess as proof of your intent to remain in Massachusetts.**

_____ Driver's license	_____ Mass. High School Diploma	_____ Employment pay stub
_____ Car registration	_____ Voter registration	_____ State/Federal tax returns
_____ Utility bills	_____ Signed lease or rent receipt	_____ Military home of record
_____ Record of parents' residency for unemancipated person	_____ Other _____	

_____ I am an eligible participant in the New England Board of Higher Education's Regional Student Program.

_____ I am a member of the armed forces (or spouse or unemancipated child) on active duty in Massachusetts.

Certification of Information

I certify that this information is true and accurate. I understand that any misrepresentation, omission, or incorrect information shall be cause for disciplinary action up to dismissal, with no right of appeal or to a tuition refund.

Applicant Signature: _____ Date _____

Parent/Guardian Signature (Applicant is Under 18 Years Old): _____ Date _____

FOR OFFICIAL USE ONLY – DO NOT WRITE IN THIS BOX

I have reviewed the above information in order to determine this individual's eligibility to receive the in-state tuition rate. Based on my review I have determined that this individual:

_____ IS eligible for the in-state tuition rate.

_____ IS NOT eligible for the in-state tuition rate.

_____ I am unable to make a determination at this time. The following additional information has been requested from the applicant: _____

Authorized College Personnel: _____ Date _____