

PROPOSED REGULATION

**SOUTH CAROLINA COMMISSION ON HIGHER EDUCATION
CHAPTER 62**

**Statutory Authority: 1976 Code Sections 59-112-10 to 59-112-100
Article V. Determination of Rates of Tuition and Fees**

Synopsis: (Remains the Same)

62-600. Rates of Tuition and Fees. (Remains the Same)

62-601. Code of Laws Governing Residence. (Remains the Same)

62-602. Definitions.

A. A "resident student" for tuition and fee purposes is defined as ~~one~~ an independent person who has abandoned all prior domiciles and has been domiciled in South Carolina continuously for at least twelve months immediately preceding the first day of classes of the term for which resident classification is sought and for whom there is an absence of such evidence in other states or countries during any period for which residence in South Carolina is asserted, notwithstanding other provisions of the Statute. In the instances of dependent students and their families who are citizens or permanent residents, the domicile of the spouse, parent, and/or guardian for at least the twelve months immediately preceding the first day of classes of the term for which resident classification is sought is considered in determining residency status.

B. "Reside" is defined as continuous and permanent physical presence within the State, provided that temporary absences for short periods of time shall not affect the establishment of residence. Temporary absences shall be absences which are thirty days or less. Excluded are absences associated with requirements to complete a degree, absences for military training service, and like absences, provided South Carolina domicile is maintained. Absences of more than thirty days may affect the establishment or maintenance of residence for tuition and fee purposes. In the instance of dependents, except for non-resident aliens, where the spouse, parent and/or guardian "reside" will be considered in determining residency status.

C. (Remains the Same)

D. (Remains the Same)

E. (Remains the Same)

F. "Terminal Leave" is defined as a transition period following active employment and immediately preceding retirement (with a pension or annuity), during which the individual may use accumulated leave.

G. "Immediately Prior" is defined as a period of time not exceeding ninety days and immediately preceding the first day of classes for the term in question.

H. "Continue to be Enrolled" is defined as continuous enrollment without an interruption that would require the student to pursue a formal process of readmission to that institution. Formal petitions or applications for change of degree level shall be considered readmissions.

I. "Non-resident Alien" is defined as a person who is not a citizen or permanent resident of the United States. By virtue of their non-resident status "non-resident aliens" generally do not have the capacity to establish domicile in South Carolina.

J. "Academic Session" is defined as a term or semester of enrollment.

62-603. Resident Classification Citizens and Permanent Residents.

A. (Remains the Same).

B. The resident status of a dependent person is based on the resident status of the person who provides more than half of the dependent person's support/er and claims the dependent person as a dependent for federal income tax purposes. The residence and domicile of a dependent minor and other dependent person shall be presumed to be that of their parent (s), spouse, or guardian(s).

C. (Remains the Same).

62-604. Non-Citizens and Non-Permanent Residents Non-Resident Aliens, Non-Citizens, and Non-Permanent Residents.

A. Except as otherwise specified in this section, all non-citizens and non-permanent residents of the United States will be assessed tuition and fees at the non-resident, out-of-state rate. Independent aliens, including refugees, asylees, and parolees and their dependents, may be entitled to resident, in-state classification once they have been awarded permanent resident status by the U.S. Department of Justice and meet all the statutory residency requirements provided that all other domiciliary requirements are met. Time spent living in South Carolina immediately prior to the awarding of permanent resident status may not be counted towards the twelve month residency period. Certain non-resident aliens present in the United States under the specific terms of in specified visa classification may be granted in-state residency for tuition and fee purposes as prescribed by the Commission on Higher Education.

B. For the purposes of this provision; The Adviser's Manual of Federal Regulations Affecting Foreign Students and Scholars will serve as the primary resource reference for defining visa categories.

62-605. Establishing the Requisite Intent to Become a South Carolina Domiciliary.

A. (Remains the Same)

B. If a person asserts his/her domicile has been established in this State, the individual has the burden of proof. Such persons should provide to the designating residency official any and all evidence which the person

believes satisfies the burden of proof. The residency official will consider any and all evidence provided concerning such claim of domicile, but will not necessarily regard any single item of evidence as conclusive evidence that domicile has or has not been established.

C. For independent persons, examples of evidence intent to become a South Carolina resident may include, although any single indicator may not be conclusive, claims for resident classification for tuition purposes indicia as listed below. The absence of these indicia in other states or countries is required during any period for which domicile in South Carolina is asserted before the student is eligible to pay in-state rates. Indicia may include:

- (1) financial independence from parents residing in another state or country during the twelve months immediately preceding;
- (2) the student has not lived in the home of non-resident parent(s) for more than thirty days after the time at which a South Carolina domicile is claimed;
- (3) (1) The person can show documentation from his/her employer to support his/her claim; has filed income tax returns as an independent person in the year immediately preceding; and has been employed during the current year; **statement of full-time employment;**
- (4) (2) possession of a valid South Carolina voter registration card and voting in South Carolina elections;
- (5) (3) designating South Carolina as the permanent address on all academic and employment records; including pertinent military records if one is in the military state of legal residence on military record;
- (6) (4) possession of a valid South Carolina driver's license, or if a non-driver, a South Carolina identification card;
- (7) (5) possession of a valid South Carolina vehicle registration card;
- (8) (6) continuous presence in South Carolina during periods when not enrolled as a student;
- (9) -- Commitments indicating an intent to stay in South Carolina permanently;
- (10) (7) paying South Carolina income taxes as a resident during the past tax year, including income earned outside of South Carolina from the date South Carolina domicile was claimed;
- (11) (8) ownership of principal residence in South Carolina; and
- (12) establishing an abode where one's permanent belongings are kept within South Carolina;
- (13) (9) licensing for professional practice (if applicable) in South Carolina.

D. With the exception of C-(1), and C-(2) and C-(3) cited above; These indicia will likewise be considered for spouses, parents, and guardians of dependent persons who wish to establish South Carolina domicile. As noted under Resident Classification "Citizens and Permanent Residents" above, the resident status of a dependent person matches that of the person who provides more than half of the dependent person's support and/or claims the dependent person as a dependent for federal tax purposes.

62-606. Maintaining Residence. (Remains the Same)

62-607. Effect of Change of Residency.

A. If the person upon whom the dependent person is dependent moves from the State; the dependent person may enroll and continue to be enrolled at the in-state rate, provided the person upon whom the dependent person is dependent was domiciled in South Carolina for at least three years immediately prior to the applicable term. The student may transfer to an eligible participating institution without forfeiting eligibility. Persons qualifying under this provision are eligible to pay in-state fees as long as there is not an interruption in their enrollment; summer terms excluded.

A. Notwithstanding other provisions of this section, any dependent person, except as otherwise excluded, who has been domiciled with his/her family in South Carolina for a period of not less than three years immediately prior to enrollment at State supported colleges and universities may enroll in those institutions of higher learning at in-state rates and may continue to be enrolled at such rates even if the person upon whom he/she is dependent moves his/her domicile from this State.

B. If a dependent or independent person has been domiciled in South Carolina for no less than three years; the person shall retain eligibility to pay in-state fees for at least twelve months following the loss of domicile.

B. If a dependent or independent person has been domiciled in South Carolina for less than three years, eligibility for in-state rates shall end on the last day of the academic session during which domicile is lost.

62-608. Effect of Marriage. (Remains the Same)

62-609. Exclusions.

A. Persons in the following categories may qualify to pay in-state fees without having to establish a permanent home in the state for twelve months. Persons who qualify under any of these categories must meet the conditions of the specific category on or before the first day of classes of the term for which payment of in-state fees is requested.

(1) "Military Personnel and their Dependents:" (Remains the Same)

(2) "Faculty and Administrative Employees, and their Dependents:" (Remains the Same)

(3) "Residents with Full-Time Employment and their Dependents:" Independent Persons who reside, are domiciled, and are full-time employed in the State and will continue to work full-time until they meet the twelve-month requirement are eligible to pay in-state fees, provided that they have taken the steps to establish a permanent home in the State (see "Establishing the Requisite Intent to Become A South Carolina Domiciliary"). The dependents of such persons are also eligible.

(4) "Retired Persons:" Retired persons who are receiving a pension or annuity who reside in South Carolina and have been domiciled in South Carolina as prescribed in the Statute for less than a year may be eligible for in-state rates and State supported aid if they maintain residence and domicile in this State.

Persons on terminal leave who have established residency in South Carolina may be eligible for in-state rates even if domiciled in the State for less than one year, if they present documentary evidence from their employer

showing they are on terminal leave. The evidence should show beginning and ending dates for the terminal leave period and that the person will receive a pension or annuity when he/she retires.

B. Full-time employment shall mean employment which consists of at least thirty-seven and a half hours a week on a single job in a full-time status. However, a person who works less than thirty-seven and a half hours a week but receives or is entitled to receive full-time employee benefits shall be considered to be employed full-time.

C. (Remains the Same)

62-610. Application for Change of Resident Status. (Remains the Same)

62-611. Incorrect classification. (Remains the Same)

62-612. Inquiries and Appeals. (Remains the Same)

Fiscal Impact Statement:

The S.C. Commission on Higher Education estimates that there will be no additional costs incurred by the State or its public institutions of higher learning in complying with these regulations.