



Board of Governors Rule

Academics
Residency Status for Admission, Tuition, and
Fee Purposes
Responsible Unit: Provost's Office
~~Amended: TBD~~~~Adopted: May 22, 2018~~
Effective: ~~TBD~~~~June 11, 2018~~
Revision History: Rewritten as BOG Rule 2.5
and adopted on May 22, 2018 (effective June
11, 2018)~~None~~
Review Date: April 2027~~2~~

BOG ACADEMICS RULE 2.4 RESIDENCY STATUS FOR ADMISSION, TUITION, AND FEE PURPOSES

SECTION 1: PURPOSE & SCOPE.

- 1.1 The University seeks to design and administer a fair and consistent system regarding the determination of residency classification of students for admission and fee purposes.
 - 1.2 This Rule applies to all students at West Virginia University, including West Virginia University Institute of Technology and Potomac State College of West Virginia University.
-

SECTION 2: RESIDENCY STATUS ASSIGNED AT THE TIME OF ADMISSION TO THE UNIVERSITY.

- 2.1 At the time of admission to the University all students shall be assigned a residency status for admission and tuition and fee purposes. Such decisions shall be made by a designated official on each of the University's campuses. In determining a student's residency status, the decision is one of Domicile, and shall be based upon information furnished by the student and all other relevant information available to the University.
 - 2.1.1 Any previous determination of a student's Domicile by another entity or institution of higher education shall not be conclusive or binding on the University.
 - 2.1.2 As appropriate, the University may interview students or require students to furnish affidavits, verifications, or other evidence as it deems necessary to establish the Domicile of a student.
 - 2.1.3 The burden of establishing Domicile for admission, tuition, and fee purposes is upon the student and must be supported by evidence of positive and unequivocal action.

- 2.1.4 The determination of a student's residency status will be determined on its own merit by the University consistent with this Rule.
- 2.2 For purposes of this Rule, Domicile within the State of West Virginia shall be established in all instances where a student, the student's spouse, or, in the case of a Dependent Student, their parent(s) or legal guardian have met at least one of the following circumstances:
- 2.2.1 Maintained a continuous presence of at least twelve (12) months within the state prior to the start of classes: Provided, that such twelve (12) months' presence must be for some primary purpose that does not include enrollment at the University. Prior to the start of classes is defined as the point in time when the student began their major or initial enrollment at the University.
- 2.2.2 Established a Domicile in West Virginia prior to entrance into Federal Service, entered the Federal Service from West Virginia, and has at no time while in Federal Service claimed or established a Domicile in another state.
- 2.2.3 Assigned to full-time Federal Service in West Virginia and residing in West Virginia.

SECTION 3: PROCESS FOR RECLASSIFYING RESIDENCY STATUS.

- 3.1 Pursuant to a process to be established by the President, students may submit an application for residency reclassification in two instances:
- 3.1.1 The student believes the initial residency determination was made in error; in which case, the student must request residency reclassification within the student's first semester attending the University.
- 3.1.2 The student believes that their residency status has, as a result of positive and unequivocal action, changed during the time of the student's enrollment.
- 3.2 The process for requesting residency reclassification shall include, at a minimum, the following:
- 3.2.1 An opportunity to appear before a committee established to receive and process requests for residency reclassification. Students shall have the option of allowing the committee to make a decision solely on the basis of written materials or the student may appear before the committee and present his or her rationale for the residency reclassification.
- 3.2.2 An opportunity to contest the decision of the committee on residency appeals by a final appeal to the President.

- 3.3 In all instances, changes in residency status resulting from a request for residency reclassification shall be effective for the academic term or semester next following the date of the initial application for reclassification.
-

SECTION 4: DEPENDENCY STATUS AND RESIDING WITH FAMILY.

- 4.1 A Dependent Student maintains the same Domicile as that of their parent(s) or legal guardian. In the event the parents are divorced or legally separated, the Dependent Student takes the Domicile of the parent with whom the student lives or is otherwise established by court order. However, a Dependent Student who enrolls and is properly classified as an in-state student maintains that classification as long as the enrollment is continuous and that student does not attain independence and establish Domicile in another state.
- 4.2 A nonresident student who becomes independent while a student attending the University does not, by reason of such independence alone, attain Domicile in West Virginia for admission, tuition, or fee payment purposes.
- 4.3 Residing with relatives (other than parent(s) or a legal guardian) does not, in and of itself, cause the student to attain Domicile in West Virginia for admission and tuition and fee purposes.
-

SECTION 5: MILITARY EDUCATION BENEFITS.

- 5.1 Any person living in West Virginia and receiving education benefits provided under Chapter 30 or Chapter 33 from the U.S. Department of Veterans Affairs shall be charged in-state tuition and fees to attend a West Virginia public institution of higher education so long as such student is considered a “covered individual” as described in 38 U.S.C. § 3679, as in effect at any time.
-

SECTION 6: INTERNATIONAL STUDENTS.

- 6.1. Students who have established a Domicile in West Virginia and who are U.S. Permanent Resident Aliens, political asylees or political refugees, or who hold an A, E, G, H, I, L, O, P, R, S, T, TD, TN, U, or V visa, may be treated as resident students for admission and fee payment purposes.
- 6.2 Students who hold B, C, D, F, J, K, M, or Q visas may not establish West Virginia residency for admissions and tuition and fee purposes.

- 6.3 Students who have established a Domicile in West Virginia and who are the beneficiary of a pending I-485 application to adjust status to permanent resident or who have an approved I-360 petition pursuant to the Violence Against Women Act or Special Immigrant Juvenile Status may apply to be reviewed for in-state residency for admission and tuition and fee purposes.
- 6.4 Students who have established Domicile in West Virginia and are subject to the Deferred Action for Childhood Arrivals, Temporary Protected Status, Deferred Enforced Departure, withholding of removal, or protection under the Convention Against Torture may apply to be reviewed for in-state residency for tuition purposes.
- 6.5 Students who have established a Domicile in West Virginia and who are the beneficiary of a pending I-589 application for asylum may apply to be reviewed for in-state residency for tuition purposes.
-

SECTION 7: FORMER DOMICILE.

- 7.1 A person who was formerly domiciled in West Virginia shall be immediately eligible for classification as a West Virginia resident for admission and tuition and fee purposes when all of the following circumstances are met:
- a. The student was a West Virginia resident when they graduated from high school;
 - b. The student was continuously enrolled during their absence from the state as a full-time student in post-secondary education;
 - c. The student's absence from West Virginia has been for four or less years; and
 - d. The student satisfies the conditions of this Rule regarding proof of Domicile and intent to remain permanently in West Virginia.
-

SECTION 8: DEFINITIONS.

- 8.1 "Dependent Student" means a student who is listed as a dependent on the federal or state income tax return of a parent or legal guardian.
- 8.2 "Domicile" means a person's true, fixed, and permanent home and place of habitation to which that person intends to permanently remain, ~~with no intent to ever move back to another state or country.~~

8.3 “Federal Service” means (i) being on full-time active military service in another state or a foreign country or (ii) being an employee of the federal government.

8.4 “President” means the President of West Virginia University or his or her designee.

8.48.5 “Prior to the start of classes” means the point in time when the student began their major or initial enrollment at the University.

Section 9: DELEGATION.

9.1 The Board of Governors delegates to the President the authority to adopt additional academic internal policies and procedures to effectuate the implementation of this Board of Governors Rule or in furtherance of any other authority that the Board of Governors has specifically delegated to the President pursuant to this Rule. Any actions taken pursuant to this delegation must be consistent with the guidelines provided by this Rule.

SECTION 10: AUTHORITY.

10.1 W. Va. Code §18B-1-6; W. Va. Code § 18B-10-1 to 16.

SECTION 11: SUPERSEDING PROVISIONS.

11.1 This Rule supersedes and replaces Higher Education Policy Commission (“HEPC”) Series 25 (W. Va. Code R. §§ 133-25-1 to -9.1.c), which was effective June 9, 2017; and any other Rule of the HEPC which relates to the subject matter contained within this Rule. This Rule also repeals and supersedes any other internal academic policy or procedure which relates to the subject matter contained within this Rule.