

6A-10.044 Determination of Residency Status for Tuition Purposes.

(1) The purpose of this rule is to establish consistent policies to determine the residency status for tuition purposes of students who are citizens of the United States or lawfully present in the United States. The determination of residency is to be made in accordance with criteria set forth in Federal law and Section (s.) 1009.21, Florida Statutes (F.S.), after the student has been admitted to a Florida College System institution.

(2) Definitions:

a. “Dependent student” has the same meaning as “dependent child” as defined in s. 1009.21, F.S.

b. “Independent student” for the purposes of residency determination shall be defined as a student meeting one of the following criteria:

1. The student is 24 years old or older by the first day of classes of the term for which residency status is sought at the institution.

2. The student is married.

3. The student has dependents that live with him or her, and the student provides more than half of the income to support those dependents.

4. The student is a graduate student or professional student.

5. The student is actively serving in the United States Armed Forces, the National Guard, or is a veteran.

6. The student is not eligible to be claimed as a dependent by his or her parent or legal guardian for federal income tax purposes according to the rules and regulations established by the United States Internal Revenue Service.

7. The student can demonstrate that he or she pays more than half of his or her tuition and required fees pursuant to s. 1009.24, F.S.

8. Both parents of the student are deceased.

c. “Resident for tuition purposes” means an admitted or currently enrolled student who meets the residency requirements in s. 1009.21, F.S., and the provisions of this rule, and is therefore eligible to pay the resident tuition and fee rate as described in s. 1009.23, F.S.

d. “Non-resident for tuition purposes” means an admitted or currently enrolled student who does not meet the residency requirements in s. 1009.21, F.S., and the provisions of this rule, and must therefore be charged the non-resident tuition and fee rate as described in s. 1009.23, F.S.

(3) Initial Determination of Residency. Each Florida College System institution shall develop policies and procedures for determining each admitted student’s Florida residency status for tuition purposes. Policies and procedures shall be consistent with the criteria set forth in s. 1009.21, F.S. Each institution’s residency appeal process established pursuant to s. 1009.21(12), F.S., shall be in writing in the institution’s catalog and prominently displayed on the institution’s website. Such policies and procedures shall, at a minimum, require:

(a) each admitted student seeking to declare residency for tuition purposes to submit a residency declaration, as prescribed by the institution, and submit the documentation required by the institution to establish Florida residency for tuition purposes.

(b) each Florida College System institution to establish submission deadlines for all documentation used to determine residency for tuition purposes.

(c) each Florida College System institution to provide written notice to admitted students that the burden of providing clear and convincing documentation to justify the institution’s classification of a student’s residency status for tuition purposes rests with the student or, if the student is a dependent, with the student’s parent or legal guardian. For documentation to be “clear and convincing,” it must be credible, precise, and compelling enough to persuade the institution that the student or, if that student is a dependent, the student’s legal guardian has established legal residency in Florida.

(d) each Florida College System institution to provide written notice requesting additional documentation to affirmatively determine residency for tuition purposes, including documentation required to review an admitted student’s citizenship status for the purposes of determining residency in accordance with s. 1009.21 (2)(d), F.S.

(e) each Florida College System institution to ensure that the student, parent or legal guardian has resided in Florida for at least twelve (12) consecutive months immediately preceding the term in which the student is seeking residency classification, and that their purpose for residence in the State shall not be solely for the purpose of pursuing an education, except as otherwise provided in s. 1009.21, F.S.

(f) each Florida College System institution to provide written notice disclosing the penalties for intentional fraud or misrepresentation of the student's residency status, or if that student is a dependent, the student's parent or legal guardian's residency status.

(4) Residency Determination Documents. If a declaration of domicile, pursuant to s. 222.17, F.S., is being used as one of the documents to establish residency for tuition purposes, the date that an applicant shall be deemed as establishing residency for tuition purposes shall be twelve (12) months after the date that the Clerk of Circuit Court notes the declaration was sworn and subscribed to them. Nothing in this subsection shall prevent the use of additional documentation as evidence that legal residency was established by other means pursuant to s. 1009.21(3)(c), F.S., as of a date earlier than that established by the declaration of domicile.

(5) Residency Reclassification Determination. A currently enrolled student who is classified as a non-resident for tuition purposes must be allowed to apply for reclassification as a resident for tuition purposes if the student, or their parent or legal guardian in the case of a dependent student, is able to meet the residency requirements set forth in s. 1009.21, F.S., to be considered a resident of Florida for tuition purposes. Each institution's residency reclassification process established pursuant to s. 1009.21(6), F.S., shall be in writing in the institution's catalog and prominently displayed on the institution's website.

(a) Reclassified students are not entitled to reimbursement of any non-resident tuition or fees properly assessed prior to reclassification.

(b) Reclassified students shall be assessed the resident tuition and fee rate at the start of the next academic term after the reclassification occurs based on the deadlines established by the institution.

(c) Nothing in this rule precludes an institution from requesting additional documentation as defined in s. 1009.21(3), F.S., to support a student's request for reclassification of residency status.

Rulemaking Authority 1009.21(13) FS. Law Implemented 1009.21 FS. History—New 10-6-92, Amended 10-17-00, 3-22-05, 6-22-10, 10-22-13, 12-2-15.

6A-10.044 Residency for Tuition Purposes.

~~The purpose of this rule is to establish consistent policies for the classification of students as residents for tuition purposes in accordance with criteria set forth in Section 1009.21, F.S.~~

~~(1) For Initial Determination of Residency: Each student shall submit Form FRD 1, Florida Residency Declaration for Tuition Purposes (<http://www.flrules.org/Gateway/reference.asp?No=Ref-05985>) to the institution making a residency determination for tuition purposes, electronically or in any other format required or authorized by the institution, and the documentation required by the institution to establish Florida residency for tuition purposes. Verification of whether the student is a dependent child as defined in Section 1009.21(1)(a), F.S., shall be satisfied if the parent declares on the Florida Residency Declaration that the student is eligible to be claimed as a dependent by the parent under the federal income tax code. Form FRD 1 is incorporated by reference and made a part of this rule to become effective December 2015. A copy of Form FRD 1 may be obtained by contacting the Division of Florida Colleges, 325 West Gaines Street, Tallahassee, Florida 32399.~~

~~(a) A dependent student who attended a Florida high school for a minimum of two (2) academic years immediately preceding his or her initial enrollment in an institution of higher education and graduated from a Florida high school or earned a State of Florida High School Diploma as authorized under Rule 6A-6.0201, F.A.C., within the last twelve (12) months may use their high school transcript or the official transcript for the State of Florida High School Diploma as evidence of Florida residency. At least one (1) additional document identified in Section 1009.21(3)(c)1. or 1009.21(3)(c)2., F.S., must be presented evidencing parental legal residence.~~

(b) If a declaration of domicile, pursuant to Section 222.17, F.S., is being used as one of the documents to establish residency for tuition purposes, the date that an applicant shall be deemed as establishing residency for tuition purposes shall be twelve (12) months hence from the date that the Clerk of Circuit Court notes the declaration was sworn and subscribed to them. Nothing in this subsection shall prevent the use of additional documentation as evidence that legal residency was established by other means pursuant to Section 1009.21(1)(c), F.S., as of a date earlier than that established by the Declaration of Domicile.

(2) For Residency Reclassification Determination. A student who is classified as a nonresident for tuition purposes may become eligible for reclassification as a resident for tuition purposes by presenting a minimum of three (3) documents identified in Section 1009.21(3)(c)1. or 1009.21(3)(c)2., F.S., that convincingly demonstrate the establishment of permanent legal residence in Florida other than for the sole purpose of pursuing a postsecondary education. Documentation must demonstrate that the student or, if the student is a dependent, his or her parent, has maintained legal residence in Florida for at least twelve (12) consecutive months immediately prior to the first day of classes for the term for which residency reclassification is sought, except as otherwise provided in Section 1009.21, F.S.

(3) The burden of providing clear and convincing documentation that justifies the institution's classification of a student as a resident for tuition purposes rests with the student or, if the student is a dependent, his or her parent. For documentation to be "clear and convincing," it must be credible, trustworthy, and sufficient to persuade the institution that the student or, if that student is a dependent, his or her parent has established legal residency in Florida that is not solely for the purpose of pursuing an education and has relinquished residency in any other state for at least twelve (12) consecutive months prior to classification. Each institution of higher education may establish submission deadlines for all documentation that will be used to determine residency for tuition purposes.

(4) A non-United States citizen may be eligible to establish residency for tuition purposes if evidence is presented verifying that he or she has legal status in the United States, has met the residency requirements of Section 1009.21, F.S., and the person is one of the following:

(a) A foreign national in a nonimmigrant visa classification that grants the person the legal ability to establish and maintain a bona fide domicile in the United States.

1. The following visa categories grant the person the legal ability to establish and maintain a bona fide domicile in the United States: A, E, G, H-1B, H-1C, I, K, L, N, NATO 1-7, O-1, R, S, T, U, and V.

2. The following visa categories do not grant the person the legal ability to establish and maintain a bona fide domicile in the United States: B, C, D, F, H2, H3, M, P, Q, and TN. J visa holders are not eligible to establish residency for tuition purposes except as provided in Section 1009.21(10), F.S.

(b) A permanent resident alien, parolee, asylee, Cuban Haitian entrant, or other qualified alien.

(c) Pursuant to Section 1009.21(2)(d), F.S., a dependent student who is a U.S. citizen may not be denied classification as a resident for tuition purposes based solely upon the immigration status of the parent.

(5) Each institution's official residency appeal process established pursuant to Section 1009.21(12), F.S., shall be in writing and prominently displayed on the institution's website.

Rulemaking Authority 1009.21(13) FS. Law Implemented 1009.21 FS. History New 10-6-92, Amended 10-17-00, 3-22-05, 6-22-10, 10-22-13, 12-2-15.