

**FLORIDA BOARD OF GOVERNORS
NOTICE OF PROPOSED REGULATION AMENDMENT**

DATE: February 4, 2010

REGULATION NUMBER AND TITLE: 7.005 Residency

SUMMARY: Regulation **7.005 Residency for Tuition Purposes** has been substantially revised due to changes made to 1009.21 Florida Statutes during the 2009 legislative session. The regulation has been reorganized so that the requirements for initial residency determination are clearly delineated from residency reclassification. Requirements for reclassification were tightened to now require at least three documents to be presented as evidence for students who were initially classified as nonresidents for tuition purposes.

In addition, a distinction was made that if a student presents as his or her sole evidence for a residency determination documentation of full-time employment or the purchase of a home, the student must not be enrolled for at least 12 months. The regulation also requires that each state university must establish a residency appeal committee and post the procedures for making an appeal on the university Web site. Clarity was also provided by adding definitions of initial enrollment and parent in the regulation. Lastly, the visa categories for determining residency for non-immigrants were updated based on the requirements of the U.S. Citizenship and Immigration Services.

FULL TEXT OF THE REGULATION IS INCLUDED WITH THIS NOTICE.

AUTHORITY TO AMEND REGULATION(S):

7.005 Residency for Tuition Purposes.

(1) Definitions.

(a) Initial enrollment refers to the first day of classes at a university as identified in the university calendar and in accordance with Board of Governors Regulation 8.001.

(b) Dependent student is any person who is eligible to be claimed by his or her parent as a dependent under the federal income tax code, regardless of whether the person is living with his or her parent and for whom fifty (50) percent or more of his or her support has been provided by another as defined by the Internal Revenue Service.

(c) Parent means the natural parent, adoptive parent, or legal guardian of a dependent student.

(d) Independent student refers to an

(i) The documentation must include at least one (1) of the following:

1. A Florida voter's registration card;

2. A Florida driver's license;

3. A State of Florida identification card;

4. A Florida vehicle registration;

5. Proof of a permanent home in Florida which is occupied as primary residence by the applicant or by the applicant's parent if the applicant is a dependent;

6. Proof of a homestead exemption in Florida;

residence in Florida other than for the sole purpose of pursuing a postsecondary education;

(ii) Documentation of permanent full-time employment in Florida for at least thirty (30) hours per week for a twelve (12) month period while not enrolled in a public postsecondary institution in Florida; or

(iii) The purchase of a home in Florida and residence therein for the twelve (12) month period while not enrolled in a public postsecondary institution in Florida.

(b) Where a dependent moved to Florida with his or her parent or parents while the dependent was in high school and the dependent graduated from a Florida high school, and the dependent's parent or parents provide convincing documentation that the parent or parents have established legal residency in Florida.

(c) Where a dependent and his or her parent or parents moved to Florida after the dependent graduated from high school and the parent or parents provide convincing documentation that the parent or parents have established legal residency in Florida and have maintained such residency for at least twelve (12) consecutive months.

(d) Where the student marries a legal resident of Florida or marries a person who becomes a legal resident of Florida, and upon becoming a legal resident of Florida, provides convincing documentation of his or her own legal residency, evidence of his or her marriage to a legal resident of Florida, and evidence of the spouse's legal residence in Florida for at least twelve (12) consecutive months immediately preceding the application.

(4) The burden of providing clear and convincing documentation that justifies the university's classification of a student as a resident for tuition purposes rests with the applicant. For documentation to be "clear and convincing," it must be credible, trustworthy, and sufficient to persuade the university that the applicant has established legal residency in Florida that is not solely for the purpose of pursuing an education and has relinquished legal residency in any other state. Each university may establish submission deadlines for all documentation that will be used to determine residency for tuition purposes.

(5) Non-U.S. citizens who are currently classified as permanent residents,

and unexpired for the entire term in which a non-U.S. citizen is classified as a Florida resident.

(6) Nonimmigrants holding one of the following visas shall be considered eligible to establish Florida residency for tuition purposes. Individuals with non-immigrant visas must provide evidence that: (1) he or she is in an eligible visa

(7) Non-U.S. citizens who fall within the following categories shall also be considered eligible to establish Florida residency for tuition purposes:

- (a) Citizens of Micronesia.
- (b) Citizens of the Marshall Islands.
- (c) Beneficiaries of the Family Unity Program.
- (d) Individuals granted Temporary Protected Status (TPS).
- (e) Individuals granted Withholding of Removal status.
- (f) Individuals granted Suspension of Deportation status or Cancellation of Removal.
- (g) Individuals granted a Stay of Deportation status or Stay of Removal.
- (h) Individuals granted Deferred Action status.
- (i) Individuals granted Deferred Enforced Departure status.
- (j) Applicants for Adjustment of Status.
- (k) Asylum applicants with USCIS receipt or Immigration Court stamp.

(8) In addition to the foregoing, universities shall classify persons as residents for tuition purposes as set forth in sections 1009.21(7) through (10), Florida Statutes.

(9) Each university shall establish a residency appeal committee that is responsible for making final residency determinations for students who initiate appeals according to the university's official appeal process. The official appeal process shall be written and displayed prominently on the university's Web site.

Authority: Section 7(d), Art. IX, Fla. Const., History—Formerly 6C-2.51, 11-18-70, 8-20-71, 6-5-73, 3-4-74, 12,17,74, 1-13-76, 12-13-77, 8-11-81, 6-21-83, 12-14-83, 6-10-84, 10-7-85, 12-31-85, Formerly 6C-7.05, 11-9-92, 4-16-96, Amended and Renumbered as 7.005 4-21-05. Amended XX-XX-XX.

- ~~(c) Beneficiaries of the Family Unity Program.~~
- ~~(d) Individuals granted temporary protected status.~~
- ~~(e) Individuals granted withholding of deportation status.~~
- ~~(f) Individuals granted suspension of deportation status or cancellation of
removal.~~
- ~~(g) Individuals granted a stay of deportation status.~~
- ~~(h) Individuals granted deferred action status.~~
- (i)

~~(b) Students requesting All Florida resident status as a dependent person must meet all of the following criteria:~~

- ~~1. The student is eligible to be claimed by his or her parent or legal guardian as a dependent under the federal income tax code;~~
- ~~2. The student's nation of citizenship is the United States~~

~~may establish submission deadlines for all documentation that will be used to determine residency for tuition purposes. The burden of providing the documentation, which justifies the classification of a student as a resident for tuition purposes, rests with the applicant.~~