

# Tuition Residency Requirements

## I. Definitions

1. Domicile: a person's fixed, and permanent home and place of habitation of indefinite duration (for an indefinite period of time); it is the place where a person intends and is able to remain permanently and to which, whenever the person is absent, the person expects to return. Domicile may be established by birth, law, and/or choice.
2. Nonresident: is a person who does not qualify as being domiciled in North Carolina.
3. Residence: a place of abode, whether permanent or temporary. A person may have may residences but only one permanent residence.
  - a. Permanent Residence: the legal residence or domicile.
  - b. Temporary Residence: one's abode for an undetermined or temporary duration.
4. Resident: is a person who qualifies as being domiciled in North Carolina.

For more complete definitions of these and other terms, consult the North Carolina Residency Determination Service ("RDS") Guidebook. All the definitions contained in the RDS Guidebook are incorporated herein by reference.

## II. Residency Status

### A. Establishing Residency

Residency status of all applicants must be determined for the purpose of tuition assessment. Nonresidents are admitted under the same admission requirements as residents but are required to pay out-of-state tuition except for courses classified as self-supporting curriculum courses or continuing education courses.

To qualify as a resident, an applicant must have established a permanent residence in North Carolina and maintained that permanent residence for at least 12 uninterrupted months immediately prior to his or her classification as a resident. The applicant must maintain their residence for purposes of maintaining a bona fide domicile rather than maintaining a mere residence for purposes of enrollment in an institution of higher education. All applicants for admission shall be required to make a statement as to their length of residence in the State. An applicant shall not be classified as a resident until they provide evidence related to their legal residence and its duration.

To determine whether a student has established a domicile in North Carolina, as opposed to a mere temporary residence, one must first determine if the student has capacity to establish residency and then reach a conclusion about the intent of the student, as measured by objectively verifiable conduct of the student. The conduct of the student, taken in total, must demonstrate an intention to make North Carolina his or her permanent dwelling place. The determination of domicile does not depend on one fact or a required combination of certain circumstances. The determination is made based on all the facts and circumstances taken together and viewed as a whole showing by a preponderance of evidence (more likely than not) that some particular location is the student's domicile. Oftentimes, this evidence

will include personal statements provided by the student regarding their intention to make a residence their domicile. While such statements are appropriate evidence to consider, there is no requirement that they be accepted at face value. A student's personal statements should be considered carefully but also cautiously even if there is no concrete evidence that the student is being untruthful. The student's conduct and actions taken toward establishing a domicile are generally of greater evidentiary value than personal statements, especially when the student's conduct and actions are inconsistent or in conflict with the student's statements of intent. Statements of a student's intent to take actions towards establishing domicile at some time in the future generally are not considered sufficient.

For a student to be classified as a resident, the balancing of all the evidence must show that there is a preponderance of evidence supporting the student's claim of domicile. To satisfy this requirement, more of the evidence than not must consist of a cluster, focus or accumulation of favorable information that the student established a domicile in North Carolina at a point in time at least 12 months prior to the domiciliary classification. Because there is almost always variation among cases and individuals, the domiciliary inquiry is more a function of reasonable review and balancing of the total circumstances of each individual case rather than a formulaic computation.

Each applicant for admission is required to complete the RDS application for initial consideration concerning residency before, during or after submitting an application for admission.

## **B. Special Rules for Domicile**

In addition to establishing a person's domicile as noted above, the determination of domicile and residence status for tuition purposes is also affected by special rules set out in North Carolina statutes. For some, but not all, of these special rules, eligible nonresidents remain classified as out-of-state students and are charged in-state tuition rates. For more specific information regarding these special results, consult the Manual.

These special rules impact the following categories of students:

1. Minors;
2. Members of the Armed Forces and their families;
3. Non-military federal personnel, volunteers and missionaries;
4. Non-U.S. citizens;
5. Prisoners/inmates;
6. Married persons; and
7. Special exemptions for certain community college students:
  - a. Business-sponsored students - When an employer (other than the armed services) pays tuition for an employee to attend a community college and the employee works at a North Carolina business location, the employee shall be charged the in-state tuition rate. In such instances, the employer must provide a W-9 form to the College for transaction and refund purposes.
  - b. Business and military transferred families - A community college may charge in-state tuition to up to one percent (1%) of its out-of-state students (rounded up to the next whole number) to accommodate the families transferred into North Carolina by business or industry, or civilian families transferred into

North Carolina by the military. A student seeking this benefit shall provide evidence of the following:

- Relocation to North Carolina by the student and if applicable, the student's family, within the 12 months preceding enrollment;
  - Written certification by the employer on corporate letterhead that the student or some member of the student's family was transferred to North Carolina for employment purposes;
  - Certification of student's compliance with the requirements of the Selective Service System, if applicable; and
  - If a family member of the transferred individual is applying for this benefit, the family member must also establish the familial relationship with the transferred individual; live in the same residence as the transferred individual; and provide evidence of financial dependence on the transferred individual.
- c. Students sponsored by a non-profit entity - A lawfully admitted nonresident of the United States who is sponsored by a North Carolina non-profit entity is eligible for the in-state resident community college tuition rate. The student is considered to be "sponsored" by a North Carolina nonprofit entity if the student resides in North Carolina while attending the community college and the North Carolina nonprofit entity provides a signed affidavit to the community college verifying that the entity accepts financial responsibility for the student's tuition and any other required educational fees. A North Carolina nonprofit may sponsor no more than five nonresident students annually under this provision. This provision does not make a person a resident of North Carolina for any other purpose.
- d. N.C. Public School Graduates - Any person lawfully admitted to the United States who satisfied the qualifications for assignment to a public school under North Carolina law (G.S. 115C-366) and graduated from the public school to which the student was assigned shall be eligible for the State resident community college tuition rate.
- e. Refugees - A refugee who lawfully entered the United States and who is living in this State shall be deemed to qualify as a domiciliary of this State under G.S. 116-143.1(a)(1) and as a State resident for community college tuition purposes. While the refugee must live in North Carolina to be eligible for in-state tuition, the refugee is not required to be domiciled in North Carolina for the 12-month qualifying period.
- f. Nonresidents of the United States - A nonresident of the United States who has resided in North Carolina for a 12-month (365 days) qualifying period and has filed an immigrant petition (Forms I-130, I-360, or I-140) with the United States Citizen and Immigration Service (USCIS) shall be considered a North Carolina resident for community college tuition purposes.
- g. Federal law enforcement officers, firefighters, EMS personnel and rescue and life-saving personnel - Federal law enforcement officers, firefighters, EMS personnel, and rescue and lifesaving personnel whose permanent duty stations are within North Carolina are eligible for the State resident community college tuition rate for courses that support their organizations' training needs. The State Board of Community Colleges must approve the courses designed to support law enforcement officers, firefighters, EMS personnel, and rescue and lifesaving personnel's training needs prior to the college awarding the State resident community college tuition rate.

## C. Loss of Resident Status

If a person has been properly classified as a resident for tuition purposes and enjoyed that status while enrolled at an institution of higher education in this state, a change in that person's state of residence does not result in an immediate, automatic loss of entitlement to the in-state tuition rate. Students in this situation are allowed a "grace period" during which the in-state rate will still be applicable even though the student is no longer a legal resident of North Carolina. The grace period can apply under certain circumstances both to currently enrolled students as well as to students who are no longer enrolled or who have graduated.

### 1. Currently Enrolled Students

To qualify for the grace period if the student is currently enrolled, the student must satisfy the following conditions:

- a. The student must have been properly classified as a resident for tuition purposes on the basis of a valid finding that the student in fact was domiciled in North Carolina and had been for the required 12-month period prior to classification; and
- b. At the time of change of legal residence to a state other than North Carolina, the individual must have been enrolled in an institution of higher education in North Carolina. "Enrolled" shall include both persons who are actually attending the institution during an academic term as well as those whose consecutive attendance of academic terms has been interrupted only by institutional vacation or summer recess periods. A person whose change in legal residence occurred during a period while not enrolled is not entitled to the benefit of the grace period.

The grace period extends for 12 months from the date of the change in legal residence, plus any portion of a semester or academic term remaining at the time the change in legal residence occurred. No change in applicable tuition rates resulting from the expiration of the basic 12-month grace period will be effective during a semester, quarter, or other academic term in which the student is enrolled; the change in tuition rates are effective at the beginning of the following semester, quarter, or other academic term. Once perfected, the grace period is applicable for the entire period at any institution of higher education in the State.

### 2. Students Who Are No Longer Enrolled

To qualify for the grace period if the student is no longer enrolled, the student must satisfy the following conditions:

- a. The student must have been properly classified as a resident for tuition purposes at the time the student ceased to be enrolled or graduated from an institution of higher education in this state; and
- b. If the student subsequently abandons their domicile in North Carolina and then reestablishes domicile in this state within twelve (12) months of abandonment, the student may reenroll at an institution of higher education in this state as a resident for tuition purposes without having to satisfy the 12-month durational requirement so long as the student continuously maintains their reestablished domicile in North Carolina at least through the beginning of the academic term for which in-state tuition status is sought.

It is important to note that a student may benefit from this particular grace period only once during their life. There is no such limitation on the grace

period available to students who experience a change in residence status while still enrolled at an institution of higher education in this state.

### **III. Reconsideration and Appeal of Residency Decisions**

If the student does not agree the initial consideration concerning their residency status, the student may seek a reconsideration or appeal with RDS. For more information concerning the reconsideration and appeal process and deadlines, the student should consult with the RDS Guidebook.

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**Legal Reference:** N.C.G.S. §§ 115D-39; 116-143.1; N.C. Session Law 2015-241, Section 11.23; 1E SBCCC 300.2; *North Carolina Residency Determination Service Guidelines* (November 2016)

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