

BOARD OF REGENTS
BRIEFING PAPER
Handbook Revision, Residency Categories and Residency Reclassification

BACKGROUND & POLICY CONTEXT OF ISSUE:

Recently the Student Affairs Council (SAC) reviewed the requirements for initial residency determinations for tuition purposes and the provisions governing residency reclassifications. In general, the group felt strongly that the current evidence requirements for residency reclassifications could be streamlined and clarified for students. As a result, the SAC and staff are recommending a number of revisions to the Board policy governing residency determinations. The revisions range from technical changes and corrections to clarifications in the policy language. The following summarizes the changes recommended by the SAC and staff as a result of the policy review:

- **Combining the Subsections on Bona Fide Residence and Intent to Remain in Nevada** -- Under current Board policy (*Title 4, Chapter 15, Section 8 of the Handbook*), in order to apply for residency reclassification a student must provide a minimum of eight items proving residency: No fewer than four items must be provided to establish the student is a bona fide resident, the student's or parents' federal tax return (to establish financial independence), and at least three additional items to establish evidence of intent to remain a Nevada resident. In practice, providing eight pieces of evidence is often difficult and unnecessary. For example, during this particular time when many students are enrolling because they are not employed, it is not uncommon for those who are not employed to not have a bank account, and this in turn limits the evidence they may provide to establish residency. The SAC and staff recommend the combining of the evidence requirements for establishing that a student is a bona fide student in Nevada and the evidence requirements proving a student's intent to remain in Nevada. The evidence requirements for financial independence will remain for a total of five pieces of evidence a student must provide.
- **Financially Dependent Students** – The SAC and staff recommend revising the policy to allow certain financially dependent students whose parents are residents to provide evidence of financial status for reclassification. For example, students who are already attending an NSHE institution and whose parents subsequently move to Nevada may apply for residency reclassification.
- **Residency Requirements Governing Resident Aliens** – The SAC and staff recommend clarifications to the existing provisions governing resident aliens who may qualify as resident students for tuition purposes under certain circumstances (*Title 4, Chapter 15, Section 4*).
- **Correction of Verifiable Errors in Classifying Students for Residency** - Under current Board policy (*Title 4, Chapter 15, Section 9*), each designated office at an institution is required to make the initial decision on the resident or nonresident student status of a person enrolling in the institution. In some cases, errors in classifying a student incorrectly as a nonresident have occurred, and institutions have required students to go through the reclassification process to correct the error. The SAC and staff recommends revising the policy to clarify the ability of institutions to correct these errors and require the designated office to correct the decision in the case of a verifiable error without requiring the student to apply for residency reclassification.
- **Effective Date** – The SAC and staff recommend an effective date of the proposed policy revisions of Fall 2014 to give the campuses sufficient time to adopt the revisions into institutional protocols.

SPECIFIC ACTIONS BEING RECOMMENDED OR REQUESTED:

Amend the provisions of Board policy governing initial residency determinations and reclassifications as previously described (*Title 4, Chapter 15, Sections 3, 4, 8 and 9*). See attached Policy Proposal.

IMPETUS (WHY NOW?):

These recommendations are being brought forward at this time as a result of recent conversations with institutional staff and the Student Affairs Council regarding the provisions governing initial residency determinations and reclassifications.

BULLET POINTS TO SUPPORT REQUEST/RECOMMENDATION:

- Clarifying the provisions governing initial residency determinations and residency reclassification will streamline the process, benefit students, and help staff at the institutions apply Board policy correctly.
- Combining the requirements for establishing a student as a bona fide resident of Nevada with those requirements for establishing intent to remain in Nevada will simplify the residency reclassification process, but at the same time will grant to the institutions the authority to require additional evidence of residency as they see fit.
- Combining the required items of evidence will provide a less onerous, but still practical, process for students applying for residency reclassification.
- Requiring the institutions to correct verifiable errors in residency determinations will mean that students will not be required to apply for residency reclassification when an error occurred in their initial residency classification.

POTENTIAL ARGUMENTS AGAINST THE REQUEST/RECOMMENDATION:

None have been brought forward.

ALTERNATIVE(S) TO WHAT IS BEING REQUESTED/RECOMMENDED:

Maintain the policy on initial residency determinations and reclassifications as is currently written.

COMPLIANCE WITH BOARD POLICY:

- Consistent With Current Board Policy: Title #____ Chapter #____ Section #____
- Amends Current Board Policy: *Title 4, Chapter 15, Sections 3, 4, 8, and 9*
- Amends Current Procedures & Guidelines Manual: Chapter #____ Section #____
- Other:_____
- Fiscal Impact: Yes____ No X____
Explain:_____

POLICY PROPOSAL
TITLE 4, CHAPTER 15, SECTION 3
Tuition – Effective Fall 2014

Additions appear in *boldface italics*; deletions are [~~stricken~~ and bracketed]

Section 3. Tuition

***Tuition shall be charged to nonresident students except as otherwise provided in this section.
Tuition shall not be charged:***

1. [~~Tuition shall not be charged to~~]To current enrollees or graduates of a Nevada high school.
2. [~~Tuition shall not be charged to~~]To returning students who had established an exemption from tuition charges at any NSHE institution in their prior enrollment period.
3. [~~Tuition shall be charged to nonresident students, except that at the community colleges no tuition shall be charged for registration~~] ***To community college students*** in community service courses that are not state funded.
4. [~~Tuition shall not be charged to~~]To a professional employee, classified employee, postdoctoral fellow, resident physician, or resident dentist of the NSHE currently employed at least half time, or the spouse or dependent child of such an employee.
5. [~~Tuition shall not be charged to~~]To a graduate student enrolled in the NSHE and employed by the System in support of its instructional or research programs, only during the period of time of such employment.
6. [~~Tuition shall not be charged to~~]To graduate fellows.
7. [~~Tuition shall not be charged to~~]To a member of the Armed Forces of the United States, on active duty, stationed in Nevada as a result of a permanent change of duty station pursuant to military orders, or a person whose spouse, parent or legal guardian is a member of the Armed Forces of the United States stationed in Nevada as a result of a permanent change of duty station pursuant to military orders, including a Marine currently stationed at the Marine Corps Mountain Warfare Training Center at Pickle Meadows, California. If the member ceases to be stationed in Nevada, reside in Nevada, be stationed in Pickle Meadows, California, or be domiciled in Nevada, the spouse, child or legal guardian of the member shall not be charged tuition if the spouse, child or legal guardian of the member was enrolled prior to the reassignment and remains continuously enrolled at an NSHE institution.
8. [~~Tuition shall not be charged to~~]To a veteran of the Armed Forces of the United States who was honorably discharged and who on the date of discharge was on active duty stationed in Nevada, including a marine stationed at the Marine Corps Mountain Warfare Training Center at Pickle Meadows, California, pursuant to military orders.

9. Except as otherwise provided in Subsection 8 of this Section, [~~tuition shall not be charged t~~]to a veteran of the Armed Forces of the United States who was honorably discharged within the two years immediately preceding the date of matriculation of the veteran at any NSHE institution.
10. [~~Tuition shall not be charged t~~]To a student enrolled in the University Studies Abroad Consortium or in the National Student Exchange Program, only during the period of time of such enrollment. Time spent in Nevada while a student is in the National Student Exchange Program shall not be counted towards satisfying the residence requirement of Section 4, Paragraph 2 below, nor shall enrollment through the Consortium or the Exchange Program be included in the "date of matriculation" for evaluation of Nevada residency.
11. [~~Tuition shall not be charged t~~]To members of federally recognized Native American tribes, who do not otherwise qualify as Nevada residents, and who currently reside on tribal lands located wholly or partially within the boundaries of the State of Nevada.

POLICY PROPOSAL
TITLE 4, CHAPTER 15, SECTION 4
Resident Students – Effective Fall 2014

Additions appear in *boldface italics*; deletions are [~~stricken~~ and bracketed]

Section 4. Resident Students

Except as otherwise provided in Section 3 of this chapter, a[A]s supported by clear and convincing evidence, any person *who meets any* [~~to whom~~] one of the following categories [~~applies~~] shall be deemed a resident student for tuition purposes:

1. Except as provided otherwise in this section, a dependent person whose spouse, family or legal guardian is a bona fide resident of the State of Nevada for at least twelve [~~(12)~~] months immediately prior to the date of matriculation. Some or all of the following pieces of objective evidence of Nevada residency may be required with the student's application for enrollment *and must be issued at least twelve months prior to the date of matriculation*:
 - a. Evidence of Nevada as the spouse's, parents' or legal guardian's permanent, primary residence at the date of matriculation (examples of evidence include home ownership, a lease agreement, rent receipts, utility bills).
 - b. The student's birth certificate or proof of legal guardianship.
 - c. The spouse's, parents' or legal guardian's tax return for the most recent tax year, which indicates the student claimed as a dependent.
 - d. A Nevada driver's license or Nevada identification card for the spouse, parent or legal guardian [~~issued prior to the date of matriculation~~].
 - e. A Nevada vehicle registration for the spouse, parent or legal guardian [~~issued prior to the date of matriculation~~].
 - f. Nevada voter registration for the spouse, parent or legal guardian [~~issued prior to the date of matriculation~~].
 - g. Evidence that the student's spouse, family, or legal guardian has relocated to Nevada for the primary purpose of permanent full-time employment or to establish a business in Nevada (examples of evidence include a letter from the employer or copy of business license).
2. Except as provided otherwise in this section, a financially independent person whose family resides outside the State of Nevada, if the person himself or herself is a bona fide resident of the State of Nevada for at least twelve [~~(12)~~] months immediately prior to the date of matriculation. [~~Each student who is a resident of the State of Nevada for at least six (6) months but less than twelve (12) months before the date of matriculation for Fall 2005 shall be deemed a bona fide resident.~~] Some or all of the following pieces of objective evidence of Nevada residency may be required with the student's application for enrollment *and must be issued at least twelve months prior to the date of matriculation*:

- a. Evidence of twelve months physical, continuous presence in the State of Nevada prior to the date of matriculation Examples of evidence include a lease agreement, rent receipts, utility bills.
 - b. The student's tax return for the most recent tax year, indicating a Nevada address. If no federal tax return has been filed by the student because of minimal or no taxable income, documented information concerning the receipt of such nontaxable income. If the student is under the age of 24, a copy of the parent's or legal guardian's tax return for the most recent tax year that indicates the student was not claimed as a dependent.
 - c. The student's Nevada driver's license or Nevada identification card [~~issued prior to the date of matriculation~~].
 - d. The student's Nevada vehicle registration [~~issued prior to the date of matriculation~~].
 - e. The student's Nevada voter registration [~~issued prior to the date of matriculation~~].
 - f. Evidence that the student, and/or the person's spouse, has relocated to Nevada for the primary purpose of permanent full-time employment or to establish a business in Nevada Examples of evidence include a letter from the employer or copy of business license.
3. A former member of the Armed Forces of the United States who was relocated from Nevada as a result of a permanent change of duty station pursuant to military orders will be considered a Nevada resident for tuition purposes under the following conditions:
- a. He/She was a resident of Nevada prior to leaving the state as a member of the Armed Forces;
 - b. He/She maintained his/her Nevada residency while a member of the Armed Forces; and
 - c. He/She returns to the State of Nevada within one year of leaving the Armed Forces.

It will be necessary for the student to supply documentation in support of each of these conditions, e.g., driver's license, property ownership, evidence of absentee voting, etc

4. A graduate of a Nevada high school
5. A financially independent person who has relocated to Nevada for the primary purpose of permanent full-time employment *or to establish a business in Nevada.*
6. A financially dependent person whose spouse, family, or legal guardian has relocated to Nevada for the primary purpose of permanent full-time employment *or to establish a business in Nevada.*
7. Licensed educational personnel employed full-time by a public school district in the State of Nevada, or the spouse or dependent child of such an employee.

8. A teacher who is currently employed full-time by a private elementary, secondary or postsecondary educational institution whose curricula meet the requirements of NRS 394.130, or the spouse or dependent child of such an employee.

9. An alien who has become a Nevada resident by establishing bona fide residence in Nevada and who holds a permanent immigrant visa, [Ø] has been granted official asylum or refugee status, [Ø] has been issued a temporary resident alien card, [Ø] holds an approved immigration petition as a result of marriage to a U.S. citizen, *or is a nonimmigrant alien admitted to the U.S. with a visa classification under which the holder is eligible to establish domicile in the U.S.* An alien holding another type of visa shall not be classified as a resident student *pursuant to this subsection*, except as may be required by federal law or court decisions and upon due consideration of evidence of Nevada residence. *The Vice Chancellor for Academic and Student Affairs shall establish procedures governing visa classifications for the purpose of determining eligibility for classification as a resident student.*

POLICY PROPOSAL
TITLE 4, CHAPTER 15, SECTION 8

Reclassification of Nonresident Status – **Effective Fall 2014**

Additions appear in *boldface italics*; deletions are [~~stricken~~ and bracketed]

Section 8. Reclassification of Nonresident Status

There is a rebuttable presumption that a nonresident attending an institution of the NSHE is in the State of Nevada for the primary or sole purpose of obtaining an education. Therefore, a nonresident who enrolls in an institution of the System shall continue to be classified as a nonresident student throughout the student's enrollment, unless and until the student demonstrates that his or her previous residence has been abandoned and that the student is a Nevada resident. Each student seeking reclassification from nonresident to resident student status must satisfy the [~~following four~~] conditions *described in subsections 1 through 3*[;].

1. Application and Written Declaration

An application for reclassification may be submitted under the provisions of this section if the material facts of a student's residency, or the residency of the student's spouse, parent or legal guardian, have substantially changed following matriculation. The student must apply in writing to the appropriate [~~Records Office~~] *office* of the institution for reclassification to resident student status. The application must include a written declaration of intent to relinquish residence in any other state and to certify to the establishment of bona fide residence in Nevada. A declaration form prescribed by the Chancellor and approved by the Board shall be utilized by each institution. The filing of a false declaration will result in the payment of nonresident tuition for the period of time the student was enrolled as a resident student and may also lead to disciplinary sanctions under Title 2, Chapter [~~Six~~] **10** of the NSHE Code. Disciplinary sanctions include a warning, reprimand, probation, suspension or expulsion.

2. Bona fide Residence *and Intent to Remain* in Nevada

The student, or the parents or legal guardian of the student, must document continuous physical presence as a Nevada resident for at least twelve [~~(12)~~] months immediately prior to the date of the application for *residency* reclassification *and must present clear and convincing, objective evidence of intent to remain a Nevada resident.* No fewer than four [~~(4)~~] of the following pieces of objective evidence must be submitted with the application for *residency* reclassification [;] *to the satisfaction of the institution. Any evidence or documentation associated with these pieces of evidence must be issued twelve months prior to the first day of the semester for which reclassification is requested.*

- a. Ownership of a home in Nevada[.];
- b. Lease of living quarters in Nevada[.];
- c. [~~Mortgage or rent receipts and a~~] Utility receipts for the home or leased quarters[.];
- d. Nevada driver's license or Nevada identification card [~~issued twelve (12) months prior to the date of application.~~];
- e. Nevada vehicle registration [~~issued twelve (12) months prior to the date of application.~~];
- f. Nevada voter registration [~~issued twelve (12) months prior to the date of application.~~];

- g. Evidence of employment in Nevada such as letter from employer on employer's letterhead, W-2 income tax form, or pay stubs;*
- h. A license for conducting a business in Nevada;*
- i. Admission to a licensed practicing profession in Nevada;*
- j. Registration or payment of taxes or fees on a home, vehicle, mobile home, travel trailer, boat or any other item of personal property owned or used by the person for which state registration or payment of a state tax or fee is required;*
- k. A Nevada address listed on Selective Service registration;*
- l. Evidence of active savings or checking accounts in Nevada financial institutions;*
- m. Evidence of summer term enrollment at a NSHE institution within the prior academic year; or*
- n. Any other evidence that objectively documents intent to abandon residence in any other state and to establish a Nevada residence.*

3. Financial [~~Independence~~] Status

~~[The student must provide evidence of financial independence. A dependent person whose family or legal guardian is a nonresident is not eligible for reclassification to resident student status. The following piece of objective evidence must be submitted with the application for reclassification:~~

- ~~a. A true and correct copy of the student's federal income tax return for the most recent tax year showing a Nevada address. If no federal tax return has been filed because of minimal or no taxable income, documented information concerning the receipt of such nontaxable income must be submitted. If the student is under the age of 24, a copy of the parent's or legal guardian's tax return for the most recent tax year must be submitted that indicates the student was not claimed as a dependent.]~~

An application for reclassification must include the following objective evidence of financial status:

- a. If financially independent, a true and correct copy of the student's federal income tax return for the most recent tax year showing a Nevada address must be submitted with the application for residency reclassification. If the student is under the age of 24, a copy of the parent's or legal guardian's tax return for the most recent tax year must be submitted that indicates the student was not claimed as a dependent. If no federal tax return has been filed because of minimal or no taxable income, documented information concerning the receipt of such nontaxable income must be submitted.*
- b. If financially dependent, a true and correct copy of the spouse, parent or legal guardian's federal income tax return for the most recent tax year showing a Nevada address must be submitted and must indicate the student filed jointly with a spouse or was claimed as a dependent. Students may also be required to provide documentation such as a birth certificate, proof of legal guardianship, or a marriage certificate to prove the relationship. A dependent person whose parent or legal guardian is a nonresident is not eligible for reclassification to resident student status.*

[4.—— Intent to Remain in Nevada

~~The student must present clear and convincing, objective evidence of intent to remain a Nevada resident. No fewer than three (3) of the following pieces of objective evidence must be submitted with the application for reclassification:~~

- ~~o. Employment in Nevada for twelve (12) months immediately prior to the date of the application for reclassification;~~
- ~~p. A license for conducting a business in Nevada;~~
- ~~q. Admission to a licensed practicing profession in Nevada;~~
- ~~r. Registration or payment of taxes or fees on a home, vehicle, mobile home, travel trailer, boat or any other item of personal property owned or used by the person for which state registration or payment of a state tax or fee is required for the twelve (12) month period immediately prior to the date of the application;~~
- ~~s. A Nevada address listed on selective service registration;~~
- ~~t. Evidence of active savings and checking accounts in Nevada financial institutions for at least twelve (12) months immediately prior to the date of the application;~~
- ~~u. Evidence of summer term enrollment at a NSHE institution;~~
- ~~v. Voting or registering to vote in Nevada; or~~
- ~~w. Any other evidence that objectively documents intent to abandon residence in any other state and to establish a Nevada residence.]~~

[5]4. The presentation by a person of one or more items of evidence as indicia of residence is not conclusive on the issue of residency. Determinations of residence shall be made on a case-by-case basis and the evidence presented shall be given the weight and sufficiency it deserves, after taking all available evidence into consideration.

[6]5. [~~Because residence~~] **Residence** in a neighboring state other than Nevada is a continuing qualification for enrollment in the WICHE Western Undergraduate Exchange program at a NSHE institution[~~, a~~]. A student who was initially enrolled in a System institution under [~~any of these discounted tuition programs~~] **the WICHE Western Undergraduate Exchange program** shall not [~~normally~~] be reclassified as a resident student following matriculation. A nonresident student who subsequently disenrolls from the WICHE Western Undergraduate Exchange program and pays full nonresident tuition for at least **twelve** [~~(12)~~] months may apply for reclassification to resident student status. An application for reclassification may [~~also~~] be submitted under the provisions of this section if the material facts of a **dependent** student's residency[~~, or~~] **as it relates to** the parents' or legal guardian's residency, have substantially changed following matriculation.

[7]6. When a student has been reclassified to resident student status, the reclassification shall become effective at the registration period in the System institution immediately following the date the student receives notice of the reclassification decision.

[8]7. No reclassification under these regulations shall give rise to any claim for refund of tuition already paid to the NSHE.

POLICY PROPOSAL
TITLE 4, CHAPTER 15, SECTION 9
Administration of the Regulations – Verifiable Error in Initial Decision
Effective Fall 2014

Additions appear in *boldface italics*; deletions are [~~stricken~~ and bracketed]

Section 9. Administration of the Regulations

Each institution of the NSHE shall designate an appropriate office to implement and administer these regulations.

1. Each designated office shall make the initial decision on the resident or nonresident student status of persons enrolling in the institution. *If a verifiable error occurs when the initial decision is made to classify a student as a nonresident for tuition purposes, the designated office shall correct the decision and reclassify the student as a resident for tuition purposes without requiring the student to apply for residency reclassification.*
2. Each designated office shall make the initial decision on applications for reclassification from nonresident to resident student status.
3. The President of each System institution shall establish an appellate procedure under which a person may appeal decisions of the designated office concerning tuition or status as a resident or nonresident student to an appellate board.
 - a. A person may appeal a decision of the designated office to the appellate board within thirty (30) days from the date of the decision of the office. If an appeal is not taken within that time, the decision of the designated office shall be final.
 - b. The appellate board shall consider the evidence in accordance with the standards and criteria of these regulations and shall make a decision that shall be final. No further appeal beyond the appellate board shall be permitted.
4. In exceptional cases, where the application of these regulations works an injustice to an individual who technically does not qualify as a resident student, but whose status, either because of the residence of the student or his family, is such as to fall within the general intent of these regulations, then the appellate board shall have the authority to determine that such a student be classified as a resident student. It is the intent of this provision that it applies only in the infrequent, exceptional cases where a strict application of these regulations results, in the sole judgment of the appellate board, in an obvious injustice.