

September 2003

Student Residency: Adoption of Updated Rules

Overview

The Higher Education Coordinating Board is responsible for adopting rules related to student residency status for tuition purposes (RCW 28B.15.011 through 28B.15.015). The following changes to state law require that state residency rules be updated:

- Engrossed House Bill 1079, effective July 1, 2003, grants residency to students who have lived in Washington for at least three years and meet other criteria. Those criteria include a provision that the student must provide an affidavit indicating that he or she will apply for permanent residency in the United States at the earliest possible opportunity and be willing to engage in other activities necessary to acquire citizenship. A copy of the affidavit is attached.
- Senate Bill 5134, passed during the 2003 legislative session, creates the border county higher education opportunity project. The purpose of the project is to allow Washington institutions of higher education that are located in counties on the Oregon border to implement tuition policies that correspond with those in Oregon.
- Law changes defining active duty military and members of the National Guard as residents.

Summary Of Proposed Adoption

In accordance with the state rulemaking process, the following actions have occurred:

- On August 6, 2003, a CR 102 (Proposed Rulemaking) form was filed with the Code Reviser, along with draft language (attached).
- On September 12, 2003, a public hearing was held in Olympia, Washington. These Board materials are being prepared in advance of the hearing. If any testimony from the hearing requires significant changes to the draft language originally filed with the Code Reviser, the Board will be notified on September 24, 2003.

Staff Recommendation

Staff recommends Board adoption of Resolution #03-26.

ATTACHMENT A

AMENDATORY SECTION (Amending WSR 03-13-056, filed 6/13/03, effective 7/14/03)

WAC 250-18-020 Student classification. (1) For a student to be classified as a "resident" for tuition and fee purposes, he or she must prove by evidence of a sufficient quantity and quality to satisfy the institution that he or she:

(a)(i) Has established a bona fide domicile in the state of Washington primarily for purposes other than educational for the period of one year immediately prior to commencement of the first day of the semester or quarter for which he or she has registered at any institution; and

(ii) Is financially independent; or

(b) Is a dependent student, one or both of whose parents or legal guardians have maintained a bona fide domicile in the state of Washington for at least one year immediately prior to commencement of the semester or quarter for which the student has registered at any institution provided that any student who has spent at least seventy-five percent of both his or her junior and senior years in high school in this state, whose parents or legal guardians have been domiciled in the state for a period of at least one year within the five-year period before the student graduates from high school, and who has enrolled in a public institution of higher education within six months of leaving high school, shall be considered a resident only for as long as the student remains continuously enrolled for three quarters or two semesters in any calendar year; or

(c) Is a person who has completed the full senior year of high school and obtained a high school diploma - both at a Washington public or private high school approved under chapter 28A.195 RCW (or who has received the equivalent of a diploma). The person must have lived in Washington at least three years immediately prior to receiving the diploma (or its equivalent), and lived continuously in Washington state after receiving the diploma (or its equivalent) until the time of admittance to an institution of higher education (defined as a public university, college, or community college within the state of Washington). In addition, the person must provide an affidavit to the institution indicating that the individual will file an application to become a permanent resident at the earliest opportunity the individual is eligible to do so. Furthermore, the individual must indicate a willingness to engage in other activities necessary to acquire citizenship, including, but not limited to, citizenship or civics review courses; or

(d) Is a student who is on active military duty stationed in the state, or who is a member of the Washington national guard; or

(e) Is the spouse or dependent of an active duty military person stationed in the state of Washington; or

~~((d))~~ (f) Is a student who resides in Washington and is the spouse or dependent of a member of the Washington national guard; or

(g) Is a student of an out-of-state institution of higher education who is attending a Washington state institution of higher education pursuant to a home tuition program agreement under RCW 28B.15.725; or

~~((e))~~ (h) Is a student domiciled for one year in one or a combination of the following states: Idaho, Montana, Oregon, or Washington, and is a member of one of the following American Indian tribes:

- (i) Colville Confederated Tribes;
- (ii) Confederated Tribes of the Chehalis Reservation;
- (iii) Hoh Indian Tribe;
- (iv) Jamestown S'Klallam Tribe;
- (v) Kalispel Tribe of Indians;
- (vi) Lower Elwha Klallam Tribe;
- (vii) Lummi Nation;
- (viii) Makah Indian Tribe;
- (ix) Muckleshoot Indian Tribe;
- (x) Nisqually Indian Tribe;
- (xi) Nooksack Indian Tribe;
- (xii) Port Gamble S'Klallam Community;
- (xiii) Puyallup Tribe of Indians;
- (xiv) Quileute Tribe;
- (xv) Quinault Indian Nation;
- (xvi) Confederated Tribes of Salish Kootenai;
- (xvii) Sauk Suiattle Indian Nation;
- (xviii) Shoalwater Bay Indian Tribe;
- (xix) Skokomish Indian Tribe;
- (xx) Snoqualmie Tribe;
- (xxi) Spokane Tribe of Indians;
- (xxii) Squaxin Island Tribe;
- (xxiii) Stillaguamish Tribe;
- (xxiv) Suquamish Tribe of the Port Madison Reservation;
- (xxv) Swinomish Indian Community;
- (xxvi) Tulalip Tribes;
- (xxvii) Upper Skagit Indian Tribe;
- (xxviii) Yakama Indian Nation;
- (xxix) Coeur d'Alene Tribe;
- (xxx) Confederated Tribes of Umatilla Indian Reservation;
- (xxxii) Confederated Tribes of Warm Springs;
- (xxxiii) Kootenai Tribe; and
- (xxxiiii) Nez Perce Tribe.

(i) Is a student who is a resident of Oregon residing in Columbia, Gilliam, Hood River, Multnomah, Clatsop, Clackamas, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco, or Washington county. The student must meet the following conditions:

(i) Is eligible to pay resident tuition rates under Oregon laws and has been domiciled in one or more of the designated Oregon counties for at least ninety days immediately prior to enrollment at a community college located in the following Washington counties: Asotin, Benton, Clark, Columbia, Cowlitz, Franklin, Garfield, Klickitat, Pacific, Skamania, Wahkiakum, or Walla Walla; or

(ii) Is a student enrolled for eight credits or less at the Tri-Cities branch or Vancouver branch of Washington State University.

(2) A student shall be classified as a "nonresident" for tuition and fee purposes if he or she does not qualify as a resident student under the provisions of subsection (1) of this section. A nonresident student shall include a student if he or she:

(a) Will be financially dependent for the current year or was financially dependent for the calendar year prior to the year in which application is made and who does not have a parent or legally appointed guardian who has maintained a bona fide domicile in the state of Washington for one year immediately prior to the commencement of the semester or quarter for which the student has registered at an institution;

(b) Attends an institution with financial assistance provided by another state or governmental unit or agency thereof wherein residency in that state is a continuing qualification for such financial assistance, such nonresidency continuing for one year after the completion of the quarter or semester for which financial assistance is provided. Such financial assistance relates to that which is provided by another state, governmental unit or agency thereof for direct or indirect educational purposes and does not include retirements, pensions, or other noneducational related income. A student loan guaranteed by another state or governmental unit or agency thereof on the basis of eligibility as a resident of that state is included within the term "financial assistance;"

(c) Is not a citizen of the United States of America, unless such person holds permanent or temporary resident immigration status, "refugee - parolee," or "conditional entrant" status or is not otherwise permanently residing in the United States under color of law and further meets and complies with all applicable requirements of WAC 250-18-030 and 250-18-035.

(3) A person does not lose a domicile in the state of Washington by reason of residency in any state or country while a member of the civil or military service of this state or of the United States, nor while engaged in the navigation of the waters of this state or of the United States or of the high seas if that person returns to the state of Washington within one year of discharge from said service with the intent to be domiciled in the state of Washington.

(4) Any resident dependent student who remains in this state when such student's parents or legal guardians, having theretofore been domiciled in this state for a period of one year immediately prior to commencement of the first day of the semester or quarter for which the student has registered at any institution, move from this state, shall be entitled to continued classification as a resident student so long as such student is continuously enrolled during the academic year.

AMENDATORY SECTION (Amending WSR 03-13-056, filed 6/13/03, effective 7/14/03)

WAC 250-18-035 Evidence of financial dependence or independence. A person is financially independent if he or she has not been and will not be claimed as an exemption and has not received and will not receive significant financial assistance in any form directly or indirectly from his or her parents, relatives, legal guardians, or others for the current calendar year and for the calendar year immediately prior to the year in which application is made.

(1) To consider a claim that a person is financially independent, the institution may require such documentation as deemed necessary, including but not limited to the following:

(a) That individual's sworn statement.

(b) A true and correct copy of the state and federal income tax return of the person for the calendar year immediately prior to the year in which application is made.

Should a person not have filed a state or federal income tax return because of minimal or no taxable income, documented information concerning the receipt of such nontaxable income may be submitted.

(c) A true and correct copy of the person's W-2 forms filed for the previous calendar year.

(d) Other documented financial resources, which may include but are not limited to the sale of personal or real property, inheritance, trust funds, state or financial assistance, gifts, loans, or statement of earnings of the spouse of a married student.

(e) A true and correct copy of the first and signature page of the state and federal tax returns of the parents, legally appointed guardians, or person or persons having legal custody of the student for the calendar year immediately prior to the year in which application is made.

The extent of the disclosure required concerning the parent's or legal guardian's state and federal tax returns shall be limited to the listing of dependents claimed and the signature of the taxpayer and shall not require disclosure of financial information contained in the returns.

(f) A student whose parents are both deceased or who has been made an official ward of the court may be required to provide documentation attesting to the fact of such circumstances.

(g) Evidence of coverage for medical, life, automobile, and property insurance.

(2) To aid institutions in determining the financial independence of a student whose parents, legally appointed guardian, or person having legal custody of the student do not provide the documentation because of total separation or other reasons from the student, documentation clearly stating the student's status and relationship with his or her parents or legal guardian from a responsible third person, e.g., family physician, lawyer, or social worker may be submitted.

(3) To be considered financially independent, a student must demonstrate by evidence satisfactory to the institution that he or she has met, through his or her income, the expenses associated with college tuition and living for the current calendar year and the calendar year immediately prior to the year in which application is made. Personal loans, PLUS loans (parent loan for undergraduate students), gifts, and cash earnings shall not be counted as income in this calculation. Financial aid grants, scholarships and loans authorized by the financial aid office in the student's name may be considered as personal income.

(4) A trust or other account available to the student shall be considered evidence of financial dependence. If the account was created before the student entered high school, there shall be a rebuttable presumption of dependence.

(5) Information submitted by the student to the institution on the ((Washington)) financial aid form may be used to affirm the authenticity of information submitted on an application.

(6) In all cases, the burden of proof that a student is financially independent lies with the student.

AMENDATORY SECTION (Amending WSR 98-08-004, filed 3/18/98, effective 4/18/98)

WAC 250-18-060 Exemptions from nonresident status. In accordance with RCW 28B.15.014, certain nonresidents may be exempted from paying the nonresident tuition and fee differential. Exemption from the nonresident tuition and fee differential shall apply only during the term(s) such persons shall hold such appointments or be so employed. To be eligible for such an exemption, a nonresident student must provide documented evidence that he or she does reside in the state of Washington, and:

(1) Holds a graduate service appointment designated as such by an institution involving not less than twenty hours per week;

(2) Is employed for an academic department in support of the instructional or research programs involving not less than twenty hours per week;

(3) Is a faculty member, classified staff member, or administratively exempt employee who resides in the state of Washington and is holding not less than a half-time appointment, or the spouse or dependent child of such a person;

~~(4) ((Is an active duty military person stationed in the state of Washington;~~

~~(5))~~ Is an immigrant having refugee classification from the U.S. Immigration and Naturalization Service or the spouse or dependent child of such refugee, if the refugee (a) is on parole status, or (b) has received an immigrant visa, or (c) has applied for United States citizenship; or

~~((6))~~ (5) Is a dependent of a member of the United States Congress representing the state of Washington.



RULE-MAKING ORDER

(RCW 34.05.360)

CR-103 (7/22/01)

Agency: Higher Education Coordinating Board	<input checked="" type="checkbox"/> Permanent Rule <input type="checkbox"/> Emergency Rule <input type="checkbox"/> Expedited Rule Making	
(1) Date of adoption: September 24, 2003		
(2) Purpose: To establish regulations for the administration of student residency status in higher education.		
(3) Citation of existing rules affected by this order: Repealed: Amended: WAC 250-18-020; WAC 250-18-035; WAC 250-18-060 Suspended:		
(4) Statutory authority for adoption: RCW 28B.15.015 Other Authority:		
PERMANENT RULE ONLY (Including Expedited Rule Making) Adopted under notice filed as WSR 03-16-089 on August 5, 2003 (date). Describe any changes other than editing from proposed to adopted version:		
EMERGENCY RULE ONLY Under RCW 34.05.350 the agency for good cause finds: <input type="checkbox"/> (a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest. <input type="checkbox"/> (b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule. Reasons for this finding:		
(5.3) Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, explain:		
(6) Effective date of rule: Permanent Rules <input checked="" type="checkbox"/> 31 days after filing <input type="checkbox"/> Other (specify) _____* <small>*(If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)</small>	Emergency Rules <input type="checkbox"/> Immediately <input type="checkbox"/> Later (specify) _____	CODE REVISER USE ONLY
Name (Type or Print) Nina Oman		
Signature		
Title Associate Director, Policy & Fiscal	Date September 24, 2003	

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	<u>6</u>	Repealed	_____
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	_____	Repealed	_____

Washington Higher Education Residency Affidavit/Declaration/Certification

Effective July 1, 2003, Washington state law changed the definition of "resident student." The law makes certain students, who are not permanent residents or citizens of the United States, eligible for resident student status – and eligible to pay resident tuition rates – when they attend public colleges and universities in this state. The law does not make these students eligible to receive need-based state or federal financial aid. To qualify for resident status, students must complete this affidavit/declaration/certification if they are not permanent residents or citizens of the United States but have met the following conditions:

Resided in Washington State for the three (3) years immediately prior to receiving a high school diploma, and completed the full senior year at a Washington high school,

or

Completed the equivalent of a high school diploma and resided in Washington State for the three (3) years immediately before receiving the equivalent of the diploma,

and

Continuously resided in the state since earning the high school diploma or its equivalent.

Print full name

Date of birth (*mo/day/yr*)

Student Identification Number (*if available*)

Relationship to the college or university: Applicant Current Student

Name of high school: _____

I certify that:

I will file an application to become a permanent resident of the United States as soon as I am eligible to apply. I am also willing to engage in activities designed to prepare me for citizenship, including citizenship and civics review courses.

I certify or declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Date

Signature

Place (city, state)

To the student: Please submit the original copy of this completed affidavit to the admissions office of the college or university to which you are applying. Faxed or e-mailed forms, or forms without an original signature, are not acceptable.

RESOLUTION NO. 03-26

WHEREAS, The Higher Education Coordinating Board, upon consideration of advice from representatives of the state's institutions and with the advice of the state attorney general, is directed by RCW 28B.15.015 to adopt rules and regulations to be used by the state's institutions for determining a student's resident and nonresident status; and

WHEREAS, The Legislature passed EHB 1079 revising RCW 28B.15.012 which became law on July 1, 2003; and

WHEREAS, The Legislature passed SB 5134 revising RCW 28B.15.0139 which became law on July 27, 2003; and

WHEREAS, The Legislature has passed laws in past sessions defining active duty military and members of the National Guard as residents; and

WHEREAS, One minor correction is necessary to remove a reference to the "Washington" financial aid form; and

WHEREAS, Residency rules, known as WAC 250-18-020, WAC 250-18-035, and WAC 250-18-060, must reflect these changes and have gone through the revision process as required by the Code Reviser's Office;

THEREFORE, BE IT RESOLVED, That the Higher Education Coordinating Board adopt permanent rules amending the above-referenced WACs to reflect current statutory provisions.

Adopted:

September 24, 2003

Attest:

Bob Craves, Chair

Ann Ramsay-Jenkins, Secretary