

Academic Affairs Procedures Handbook
[Excerpt]
3.17 In-State/Out-of-State Status of Enrolled Students

Purpose of Policy

3.17.1

The *In-State/Out-of-State Status of Enrolled Students* policy set forth in the paragraphs to follow establishes principles, definitions, criteria, and guidelines to assist institutional officials in the classification of students as in-state or out-of-state for fee and tuition-payment purposes. Also, the policy statement should be helpful to prospective students in the determination of their own in-state/out-of-state status prior to enrollment or for those out-of-state students seeking to be reclassified as in-state after having been classified originally as out-of-state. Determination of in-state status for purposes of attendance at an institution in the state is based primarily on the issue of domiciliary intent.

Authority

Oklahoma statute 70 O.S., Supp. 2003, §3218.2 authorizes the State Regents to establish tuition and fees charged at public institutions to in-state/out-of-state postsecondary students. Further, in accordance with Title 70, Section O.S., §3242 (2007) (also known as HB1804 of the First Regular Session of the 51st Legislature (HB1804)), an individual who cannot present to the institution valid documentation of United States nationality or an immigration status permitting study at a postsecondary institution, but who has graduated from a public or private high school in Oklahoma, and who meets certain requirements may be eligible for enrollment, resident tuition, and state student financial aid.

Sample affidavits for undocumented students can be found in the Forms and Reference Information section of this handbook.

Policy Procedures

3.17.3 Principles

As part of the admissions process, institutions are responsible for determining students' in-state/out-of-state status consistent with this policy. Administrators interview students, review documentation and are in the best position to determine whether the student may be classified as in-state. Each institution must designate an appropriate administrative official (most often the Admissions Officer) as responsible for administration of this policy. Clarification and additional information including documentation examples and frequently asked questions are in the *Academic Affairs Procedures Handbook*.

The burden of proof to establish in-state status shall be upon the student. Since residence or domicile is a matter of intent, each case will be judged on its own merit by the appropriate administrative official(s) consistent with this policy. Mere assertion by a student such as checking “In-State” on the application for admission is insufficient. The appropriate administrative official must review relevant documents, consider the policy principles and procedures, circumstances, and documentation to determine in-state status. While no set criteria, documentation, or set of circumstances can be used for this purpose, the principles outlined below guide the process.

- A. Attendance at a postsecondary educational institution, albeit a continuous and long-term experience, does not establish in-state status. Therefore, a student neither gains nor loses in-state status solely by such attendance.
- B. Students attending an Oklahoma college or university may perform many objective acts, some of which are required by law (i.e. payment of taxes), and all of which are customarily done by some out-of-state students who do not intend to remain in Oklahoma after graduation, but are situational and necessary and/or voluntary (i.e. registering to vote, obtaining a driver's license). Such acts and/or declarations alone are insufficient evidence of intent to remain in Oklahoma beyond the college experience.
- C. An out-of-state student attending an Oklahoma college or university on more than a half-time basis is presumed to be in the state primarily for educational purposes.
- D. An individual is not deemed to have acquired in-state status until he or she has been in the state for at least a year primarily as a permanent resident and not primarily as a student and has established domicile. Likewise, an individual classified as in-state shall not be reclassified as out-of-state until 12 months after leaving Oklahoma to live in another state.
- E. Unless residency has been established in another state, an individual who resided in Oklahoma at the time of graduation from an Oklahoma high school and has resided in the state with a parent or legal guardian for two years prior to graduation from high school will be eligible for in-state status and as allowed in 3.17.7 and 3.17.8.
- F. Each spouse in a family shall establish his or her own status on a separate basis. Exceptions include the following: when an out-of-state status individual marries a person with in-state status, the out-of-state individual may be considered in-state after documentation of the marriage and proof of domicile are satisfied without the 12 month domiciliary waiting period, and as provided in sections 3.17.7 or 3.17.8.
- G. Initial classification as out-of-state shall not prejudice the right of a person to be reclassified thereafter for following semesters or terms of enrollment as in-state provided that he or she establish domicile as defined in this policy. Institutions must establish procedures for students to appeal out-of-state status classification.
- H. Institutions may, but are not required, to waive out-of-state tuition (also known as Nonresident Tuition Waiver) in accordance with current State Regents’ *Tuition and Fees* policy 4.18.5.B that

allows any institution in the State System to waive a portion of the out-of-state tuition which amount shall not exceed the difference between out-of-state tuition and the amount paid by in-state students.

- I. When a student transfers from one institution to another, the institution to which the student transfers is not bound by the in-state/out-of-state classification previously determined and may request documentation to determine the student's in-state/out-of-state status.

3.17.4 Dependent and Independent Persons

- A. The legal residence of a dependent person is the postsecondary student's parents or the residence of the parent who has legal custody or the parent with whom the student habitually resides. If the student is under the care of those other than the parents, the legal residence is that of the student's legal guardian.
- B. In-state/out-of-state classifications of postsecondary students with extenuating circumstances (e.g., divorced parents with joint custody when one parent or legal guardian lives out-of-state and/or claimed as a dependent on a tax return, etc.) may be considered on a case-by-case basis. Guidance for administrative officers charged with classifying students will be provided in the procedures handbook.
- C. A dependent person may establish independent person status through circumstances including, marriage, formal court action, abandonment by parents, etc. To qualify, a dependent person must have completely separated from the parental or guardian domicile and prove that such separation is complete and permanent. Additionally, the individual must provide evidence that they are responsible for their housing and living expenses. Mere absence from the parental or guardian domicile is not proof of its complete abandonment. If an applicant can provide adequate and satisfactory evidence of independent status and domicile, they may be granted in-state status.

If an independent person can provide evidence of coming to Oklahoma to establish domicile, the

applicant may be granted in-state status at the next enrollment occurring after expiration of 12 months following establishment of domicile in Oklahoma.

Frequently Asked Questions

1. *I've lived in Oklahoma for over a year; can I be re-classified as in-state now?*

Qualifying as in-state for tuition purposes requires more than just being present in the state for a year. The institution may consider various facts, including the duration of time in Oklahoma (12 months) to determine the intent to be an Oklahoma resident. Students attending an Oklahoma college or university may perform many objective acts, some of which are required by law (i.e. payment of taxes), and all of which are customarily done by some out-of-state students who do not intend to remain in Oklahoma after graduation, but are situational and necessary and/or voluntary (i.e. registering to vote, obtaining a driver's license). Such acts and/or declarations alone are insufficient evidence of intent to remain in Oklahoma beyond the college experience. No one item or any combination of items shall control resolution of domiciliary intent.

2. *What is the minimum amount of time a person must reside in Oklahoma to be classified as in-state?*
There are a couple of provisions that allow immediate classification as in-state – subject to institutional requirements of documentation - 3.17.7 *Uniformed Services and Other Military Service/Training* or 3.17.8 *Full-Time Professional Practitioner or Worker* are satisfied. If the person does not satisfy the requirements listed in the above policies, to be classified as in-state, the person must have resided in Oklahoma for at least 12 months not primarily as a postsecondary student, has established domicile in Oklahoma and meet requirements associated with in-state status in policy 3.17.4 *Dependent and Independent Persons*.

3. *In an attempt to determine a student's domiciliary intent, what types of inquiries would be appropriate to control resolution?*

The institutions may request the following, but is not an exhaustive list:

- Tax returns (federal and Oklahoma - make sure they are individual returns **not business**),
- Letter from employer stating date first employed, location and hours per week or clarification of part-time vs. full-time employment status (may follow-up with a phone call confirmation),
- Current check stub showing salary rate, Oklahoma tax withheld and cumulative earnings (could possibly be used as substitute for employer letter or tax return for spring admissions),
- Warranty deed for home purchase or lease agreement for rental (covering 12 months prior to matriculation), or
- Admission to a licensed practicing profession in Oklahoma

The following items, standing alone, generally do not establish in-state status:

- Voting or registering to vote in Oklahoma
- Employment in any position normally filled by a student
- Lease of living quarters in Oklahoma
- A statement of your intention to acquire domicile in Oklahoma
- Classification of the student's spouse, unless married to a person with established in-state status (see 3.17.3F) or as provided in 3.17.7 or 3.17.8
- Vehicle registration in Oklahoma
- Acquisition of an Oklahoma's drivers license
- Payment of Oklahoma personal property taxes

4. *Are students from U.S. territories considered to be U.S. Citizens?*

Persons who are born in the 50 states, the District of Columbia, and in most cases, Puerto Rico (PR), the U.S. Virgin Islands (VI), Guam (GU), and the Northern Mariana Islands (MP) are U.S. citizens, as are most persons born abroad to parents (or a parent) who are citizens.

5. *How are students with divorced parents when one is living in Oklahoma and the other in different state classified?*

The student will be reviewed on a case-by-case basis and may be classified as in-state so long the in-state parent satisfies either:

- Policy 3.17.7 *Uniformed Services and Other Military Service/Training* or 3.17.8 *Full-Time Professional Practitioner or Worker* or
- Has resided in Oklahoma for two consecutive years and has established domicile (documentation of established domicile and length of residence in Oklahoma may be requested by the institution).

Further, a petition and statement with supporting documentation of primary care, custody and support submitted by the parent residing in Oklahoma may be requested by the institution in effort to determine in-state/out-of-state status. The burden of proof to establish in-state status shall be upon the student.

6. *Is there a limit on the number of out-of-state tuition waivers an institution can grant?*
According to the budget and fiscal *Student Tuition and Fees* policy there are no limits on out-of-state waivers; however, institutions may set internal limits on the number of out-of-state tuition waivers granted.
7. *Is a student that has been classified as an independent person eligible for in-state classification?*
If an independent person can provide evidence of coming to Oklahoma to establish domicile, the applicant may be granted in-state status at the next enrollment occurring after expiration of 12 months following establishment of domicile in Oklahoma. It should be noted the student cannot have resided in Oklahoma primarily as a college student.
8. *If a documented foreign national is recruited to the state as a temporary resource, but is not interested in becoming or is ineligible to become a resident, can we consider this person an exception to policy and waive the out-of-state portion of their fees under the Tuition Waivers section?*
Yes, documented foreign national with visas that allow full-time employment for extraordinary ability in sciences, arts, education, business, athletics, administrator, or specialist of a treaty nation operating in the United States are eligible for an out-of-state tuition waiver as long as they remain in full-time working status. Their dependents are also eligible. Institutions are not required to grant the tuition waiver.
9. *What types of Visa's are suitable for work/educational purposes?*
For appropriate student and exchange visitors, permanent and temporary workers Visa's refer to the USCIS website <http://www.uscis.gov/portal/site/uscis>. The following Visa's may be suitable for work/educational purposes, but is not intended to be an exhaustive list: F-1, J-1, M-1, H-1B, etc.
10. *Can a documented foreign national be classified as in-state?*
Not in the revised policy. Documented foreign nationals may attend as postsecondary students if they have appropriate educational or work visas as detailed in section 3.17.5. These individuals are eligible for in-state classification if they become lawful permanent residents, have resided in Oklahoma for at least 12 consecutive months, and meet domicile requirements as set forth in this policy.
11. *Are dependent children of a documented foreign national in Oklahoma on an educational visa eligible for in-state status if the dependent child graduated from an Oklahoma high school?*

State Regents' policy section 3.17.5 states that documented foreign nationals are eligible for in-state classification if they become lawful permanent residents, have resided in Oklahoma for at least 12 consecutive months, and meet domicile requirements as set forth in this policy. State Regents' policy section 3.17.5 has precedence over 3.17.3.E and 3.17.8; therefore, documented foreign nationals are not eligible for in-state classification. Documented foreign nationals may be eligible for an out-of-state tuition waiver in accordance with institutional policies.

12. *Are dependents of permanent residents (green card holders) automatically issued permanent resident status by default?*

State Regents' policy does not address this issue. Please refer to the U.S. Citizenship and Immigration Services website, which has a defined process for permanent residents to petition on behalf of their dependents. Refer to <http://www.uscis.gov/portal/site/uscis>.

13. *Can institutions award out-of-state tuition waivers for documented foreign nationals who haven't resided in Oklahoma for at least 12 consecutive months or established domicile?*

Documented foreign nationals who are present in the U.S. with visas that allow full-time employment for extraordinary ability in sciences, arts, education, business, athletics, as an executive, manager, or specialist of a treaty nation company operating in the U.S. are eligible for out-of-state tuition waivers as long as they remain in full-time working status. Dependents of these documented foreign nationals who are lawfully present in Oklahoma based on the documented foreign national's visa are also eligible for out-of-state tuition waivers.

14. *Are documented foreign nationals eligible to be classified as full-time professional practitioners or workers?*

No, effective fall 2011 (or if an institution has approval to implement the policy early) documented foreign nationals are no longer eligible under this provision. However, documented foreign nationals are eligible for out-of-state tuition waivers.

15. *Can undocumented students be classified as in-state?*

The legislation does not allow undocumented individuals to be classified as in-state. It does allow them to enroll at State System institutions, pay resident tuition (if they qualify as indicated below), and be eligible for state financial aid and scholarships only if the student has completed an affidavit as prescribed in 3.17.6A-E and:

- Graduated from a public or private Oklahoma high school;
- Resided in the state with a parent or legal guardian while attending classes at an Oklahoma public or private high school for at least two (2) years prior to graduation; and
- Satisfies admission standards for the institution.

16. *Are undocumented students who have graduated from out-of-state high schools eligible for admission into Oklahoma State System institutions?*

Yes. Additionally colleges and universities may edit the affidavit to suit their needs as long as the policy language remains the same.

17. *If a uniformed service member's family receives orders to leave the state during a student's high school senior year and the student remains in the state to attend college, can he or she be considered in-state for tuition purposes?*

Yes, policy states members of the uniformed services who provide evidence that they are full-time active duty in the uniformed services and stationed in Oklahoma shall be immediately classified as in-state status along with their spouse and dependent children. Further, when members of the uniformed services are transferred out-of-state, the member, their spouse and dependent children shall continue to be classified as in-state as long as they remain continuously enrolled.

Retired and honorably discharged uniformed services personnel who remain in Oklahoma after their service may retain their in-state status without the 12 month requirement if they establish domicile as defined in this policy. Copies of the Certificate of Release or Discharge from Active Duty DD form 214 shall serve as documentation.

18. *How should a uniformed service member dependent be classified if their legal guardian or parent have been stationed in Oklahoma less than a year and received deployment orders from the military and the dependent will have been in Oklahoma less than a year after high school graduation?*

If the student is a uniformed service member dependent s/he is classified as in-state per policy 3.17.7 *Uniformed Services and Other Military Service/Training*.

19. *Are dependent children of uniformed service members stationed in Oklahoma who have not established residency as per 3.17.3D and 3.17.4A eligible for a concurrent enrollment tuition waiver?*

Yes. Policy 3.17.7 states "members of the uniformed services, along with their dependent children and spouse, who provide evidence that they are full-time active duty status of more than thirty (30) days in the uniformed services stationed in Oklahoma or temporarily present through military orders" shall be eligible for in-state status.

20. *What type of document will serve as evidence of full-time active duty in the uniformed services?*

Military orders or their most recent military leave and earnings statement.

21. *What is the minimum length that uniformed service members stationed in Oklahoma or temporarily present through military orders must reside before establishing in-state status?*

Per the Uniformed Services and Other Military Services/Training policy section 3.17.7, members of the uniformed services who provide evidence that they are full-time active duty in the uniformed services stationed in Oklahoma or temporarily present through military orders shall be immediately classified as in-state upon admission.

22. *Will policy 3.17.7 Uniformed Services and Other Military Service/Training, which states members of the uniformed services who provide evidence that they are full-time active duty stationed in Oklahoma or temporary present through military orders shall be immediately classified upon admission as in-state status along with their spouse and dependent children, impact arrangements made through fiscal policy 4.18.4C Contract Credit Course Fee?*

No. Institutions authorized by the State Regents to establish special fees for delivery of courses and programs to governmental entities, including, but not limited to, the military, profit and nonprofit associations, corporations, and other private entities shall continue to operate the agreement as described in policy 4.18.4C.

23. *Do dependent children of members of the military reserve retain in-state status if they transfer to another State System institution?*

Yes. Per HB 2689, dependent children of members of the military reserve on full-time active duty shall be immediately classified upon admission as in-state status provided that Oklahoma is the home of record.

24. *For the purposes of maintaining in-state state status, as described in 3.17.7F, what is considered continuously enrolled?*

To maintain in-state status under the continuously enrolled provision as described in 3.17.7F, the student, regardless of classification, must enroll each Fall and Spring Semester. The Summer Semester and intersession terms are optional. Any break in enrollment, during a Fall or Spring Semester, for students described in 3.17.7F, would make the student ineligible for in-state status unless provided by other sections of the *In-State/Out-of-State Status of Enrolled Students* policy.

25. *If a student, who is required to be continuously enrolled to maintain in-state status, as described in 3.17.7F, transfers from one state system institution to another state system institution, without a break in enrollment, will he/she retain in-state status?*

Yes. Based on Senate Bill 138, an eligible student shall maintain in-status at an institution within the state system if a student, as described in policy section 3.17.7F, remains continuously enrolled at an institution within the state system.

26. *If Oklahoma is not the home of record of the service member that was discharged or released from active uniformed service and the student is enrolled during a semester in which he/she has exhausted educational assistance, under chapter 33 or 30, will the student maintain in-state classification in subsequent semesters?*

Based on Senate Bill 138, an eligible student who has exhausted educational assistance, under Chapter 30 or 33, shall maintain in-state status if the student remains continuously enrolled at an institution within the State System.

27. *If the five year period, after being discharged or released expires during a semester in which an eligible student is enrolled, will the student maintain in-state classification in subsequent semesters?*

Based on Senate Bill 138, an eligible student, who exceeds the five year period after being discharged or released from active duty uniformed service, shall maintain in-state status if the student remains continuously enrolled at an institution within the State System.

28. *A student meets the requirements of 3.17.7A3, 3.17.7B1, or 3.17.7B2. During the fifth and sixth year, the student remains enrolled at the same institution; however, during the sixth year, the student changes his/her major. Is the student eligible for continued classification as in-state?*

An eligible student, who exceeds the five year period after being discharged or released from active duty uniformed service, shall maintain in-state status (pay in-state tuition) if the student remains continuously enrolled at an institution within the state system. Therefore, a student who is continuously enrolled during the sixth year will maintain in-state status (pay in-state tuition), even in cases in which the student changes his/her major.

29. *Does policy 3.17.7 Uniformed Services and Other Military Service/Training relating to military reserve qualify the reservist and the spouse for in-state status?*

Yes. Title 70, O.S., Section 3247 states explicitly that a student shall be eligible for in-state status if the student is the dependent child or spouse of a member of the military reserve.

30. *What documentation will validate that the individual met the 90 day minimum service requirement and enrolled within a five year period after being discharged or released from active uniformed service?*

The Certificate of Release or Discharge from Active Duty, generally referred to as a DD-214, will provide the information needed to substantiate if these conditions are met.

31. *If Oklahoma is the home of record of the service member who was discharged or released from active uniformed service, does the student have to be receiving VA educational assistance to qualify for in-state status?*

No. Based on Senate Bill 138, if Oklahoma is the home of record, a person, or dependent children or spouse of a person, who was discharged or released from a period of not fewer than ninety (90) days of active uninformed service, less than five (5) years before the date of enrollment in the course(s) concerned shall be classified as in-state.

32. *If Oklahoma is not the home of record of the service member that was discharged or released from active uniformed service, who is eligible for in-state classification?*

If Oklahoma is not the home of record, eligible individuals include those who are:

Receiving Montgomery (chapter 30) and Post-9/11 GI Bill (chapter 33) educational assistance; and

- Enroll within 5 years of discharge after serving 90 days or more on active duty; or
- Anyone using transferred entitlement within 5 years of the transferor's discharge after serving 90 days or more on active duty; or
- Surviving Spouses or Children under the Fry Scholarship who enroll within 5 years of an active duty service member's death in the line of duty after serving 90 days or more.

33. *Do members of the National Guard or reserves fall within the uniformed service category?*

The National Guard or reserves are not considered uniformed service; however, a member of the National Guard or reserves, who is called to federal active duty, is serving within the uniformed services category during the time in which s/he is active duty.

34. *Where can information be found regarding the Oklahoma National Guard Tuition Waiver?*
Please refer to the Budget and Fiscal Affairs policy section 4.18.5.j.

35. *Does the Full-Time Professional Practitioner or Worker section override the concept of domiciliary intent?*

Yes, so long as they continue in such full-time employment capacity or until such time that they establish residency.

36. *How should a person be classified if they have come to Oklahoma to work full-time, but have also attended school on more than a half-time basis?*

Persons who provide evidence of having come to Oklahoma to practice a profession on a full-time basis, conduct a business full time, or work on a full-time basis shall be immediately classified as in-state status along with the individual's spouse and dependent children without the 12 month domiciliary requirement so long as they continue in such full-time employment capacity or until such

time that they independently establish in-state status. Attending school on more than a half-time basis does not disqualify full-time workers from being reclassified as in-state.

37. *What type of evidence is appropriate to verify that the full-time professional practitioner or worker described in 3.17.8 that is also a student, has come to Oklahoma primarily for employment purposes?*
To support the intent of the policy, the student should provide documentation that the full-time employment preceded enrollment in school.

38. *Can a student working multiple part-time jobs equaling 40 hours, or more, per week qualify for in-state status under the full-time professional practitioner or worker policy?*
While State Regents' policy is not explicit, this particular situation would not meet the spirit of the full-time practitioner or worker policy.

39. *For those individuals that provide evidence of having come to Oklahoma to practice a profession on a full-time basis, conduct a business full-time, or work on a full-time basis, is it required that they live in Oklahoma full-time?*
While State Regents' policy is not explicit, the intent of the policy regarding practicing a profession, conducting a business full-time, or working on a full-time basis is that the individual who meets the criteria would also live in Oklahoma on a full-time basis.

Approval and Revisions

Approved July 1958. Revised March 28, 1967; December 16, 1974; June 29, 1977; July 25, 1984; December 5, 1988; October 23, 1989; March 24, 1993; June 28, 1996; June 30, 2003; April 1, 2004; and June 29, 2006; April 22, 2010 (effective Fall 2011); June 24, 2010.

The March 28, 1967 revisions included clarifying that attendance at an institution does not constitute residency, clarifying the military policy, defining age of a minor as 21, and adding a section on adult students.

The December 16, 1974 revisions included revising the language regarding married students and adding non-US citizen section.

The June 29, 1977 revisions included provisions for Asian refugees.

The July 25, 1984 revisions introduced a new version of the policy including philosophy, principles, and definitions.

The December 5, 1988 revisions included provisions for those with an amnesty card.

The October 23, 1989 revisions included the addition of language regarding full-time professionals, state drivers' licenses and personal vehicles registered in Oklahoma.

The March 24, 1993 revisions included the addition of language on domiciliary intent, revisions to the military personnel and full-time professional sections, and removing the proof of residence list.

The June 28, 1996 revisions included provisions for those married to Oklahoma residents.

The June 30, 2003 revisions included provisions for undocumented students as required by SB 596.

The April 1, 2004 revisions included new provisions for Oklahoma high school graduates, military dependents, and dependents of full-time workers for consistency with the provisions for undocumented students. These revisions were effective with the 2004 Fall semester.

The June 29, 2006 revisions included only formatting and minor language changes.

The April 22, 2010 revisions included new provisions providing clarification to confusing passages, reduction to ambiguities in the policy language and clear guidance to State System institutions regarding residence status.

The June 24, 2010 amendment added language to policy section 3.17.7 *Military Personnel* to allow institutions better flexibility and provide clarity to better serve members of the armed forces.

On April 22, 2010 the Oklahoma State Regents for Higher Education approved revisions to the policy statement on *Residence Status of Enrolled Students*. The revised policy included a title change from *Residence Status of Enrolled Students* to *In-State/Out-of-State Status of Enrolled Students*. Within the policy revision, all references to "residence" have been changed to "in-state" or "out-of-state" as appropriate.

The May 25, 2012 revisions clarified and linked Chapter 3 Academic Affairs *In-State/Out-of-State Status of Enrolled Students* policy with the Chapter 4 *Budget and Fiscal Affairs Student Tuition and Fees Policy* pertaining to the Oklahoma National Guard tuition waiver.

The December 6, 2012 revisions included provisions for dependent children of members of the military reserve as required by HB 2689.

The September 4, 2014 changes aligned policy with Senate Bill 1829 signed by Governor Mary Fallin relating to higher education making students who participate in the Reserve Officer Training Corps eligible for resident tuition at State System institutions.

The May 29, 2015 changes align with the provisions of H.R. 3230 section 702 and of SB 138 relating to in-state status for dependents of military personnel; providing criteria for in-state status for students who qualify for certain federal veteran benefits, the spouses of such students and certain children of such students; providing definition; requiring a student to make certain filing and maintain certain status to remain eligible.