

### **3.18 IN-STATE/OUT-OF-STATE STATUS OF ENROLLED STUDENTS**

#### **3.18.1 Purpose**

This policy establishes criteria and guidelines to assist institutional officials in the classification of postsecondary students as in-state/out-of-state students in accordance with [70 O.S. § 3218.2](#), which authorizes the State Regents to set tuition and fees charged at public institutions.

#### **3.18.2 Determination of Residency**

As part of the admissions process, institutions are responsible for determining students' in-state/out-of-state status consistent with this policy.

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.

- 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 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). These 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 by this policy.
- 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 this policy.
- 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 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.

### 3.18.3 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 the 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.
- D. 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.

### 3.18.4 Documented Foreign Nationals

Documented foreign nationals may attend as postsecondary students if they have appropriate educational visas. 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.

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.

### 3.18.5 Students Impacted by War

Students are eligible for in-state tuition who meet the criteria for Special Student Relief (SSR) established by the [US Department of Homeland Security](#); or have been given Temporary Protected Status (TPS) by the [US Citizenship and Immigration Services](#). The university Designated School Official (DSO) must provide a letter of verification to support SSR or TPS eligibility.

### 3.18.6 Undocumented Students

Pursuant to [70, O.S. § 3242](#) 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:

- A. Graduated from a public or private Oklahoma high school; and
- B. Resided in this 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
- C. Satisfies admission standards for the institution. Students are eligible for enrollment and/or out-of-state tuition waivers if that individual:
  1. Provides the institution with a copy of a true and correct application or petition filed with the United States Citizenship and Immigration Service (USCIS) to legalize the student's immigration status, or
  2. Files an affidavit with the institution stating that the student will file an application to legalize his or her immigration status at the earliest opportunity the student is eligible to do so, but in no case later than:
    - a. One (1) year after the date on which the student enrolls for study at the institution, or
    - b. If there is no formal process to permit children of parents without lawful immigration status to apply for lawful status without risk of deportation, one (1) year after the date the USCIS provides the formal process, and
  3. If the student files an affidavit pursuant to subsection 2.b. above, presents to the institution a copy of a true and correct application or petition filed with the USCIS no later than:
    - a. One (1) year after the date on which the student enrolls for study at the institution, or
    - b. If there is no formal process to permit children of parents without lawful immigration status to apply for lawful status without risk of deportation, one (1) year after the date the USCIS provides the formal process, which copy shall be maintained in the institution's records for that student.
  4. Any student who completes and provides the institution with a copy of a true and correct application or petition filed with USCIS to

legalize the student's immigration status shall not be disqualified on the basis of the student's immigration status from any scholarships or financial aid provided by this state as long as the student meets all of the following:

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

### 3.18.7 Foreign Service Officers

A foreign service officer employed by the United States Department of State and enrolled in an Oklahoma State System institution of higher education is entitled to pay in-state tuition and fees if the person's home residency is Oklahoma, even if they permanently work aboard to fulfill their duties.

### 3.18.8 Uniformed Services and Other Military Service/Training

The following section is compliant with 38 U.S.C. § 3679(c) and [70 O.S. § 3247](#).

#### A. Active Uniformed Services

The following shall be eligible for in-state status:

1. 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) calendar days in the uniformed services stationed in Oklahoma or temporarily present through military orders. Further, when members of the armed 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.
2. Regardless of the residency of the student, dependent children or spouse of a person who is currently serving as a member of the active uniformed services of the United States on full-time active duty status of more than thirty (30) calendar days for whom Oklahoma is the home of record.
3. A person who files with the institution within the State system at which he/she intends to register a letter of intent to establish residence in the state and who
  - a. is entitled to educational or training assistance under 38 U.S.C. § 3319 by virtue of a relationship to a person who is currently serving on active duty; and
  - b. resides in the state while enrolled in the institution, regardless of the student's formal state of residence or the active service member's home of record.
4. Former full-time active 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.

B. Discharged or Released from Active Uniformed Service (Regardless of the Home of Record)

A student who files with the institution within the State System at which the student intends to register a letter of intent to establish residence in the state and who resides in the state while enrolled in the institution shall be eligible for in-state status (i.e., in-state tuition), regardless of the residency of the student or home of record, if the student:

1. Is a person who:
  - a. was discharged or released from a period of not fewer than ninety (90) calendar days of active duty uniformed service, and
  - b. is pursuing a course of education with educational assistance under Chapters 30, 33 or 35 of Title 38 of the United States Code.
2. Is a person who is entitled to assistance under 38 U.S.C. § 3319 by virtue of a relationship to a person who was discharged or released from a period of not fewer than ninety (90) calendar days of active duty uniformed services.
3. Is a person who is pursuing a course of education with educational assistance under Chapter 31 of Title 38 of the United States Code.

C. Discharged or Released from Active Uniformed Service (Oklahoma 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) calendar days of active uniformed service and for whom Oklahoma is the home of record shall be eligible for in-state status.

D. Military Reserve Member on Full-Time Active Duty

Regardless of the residency of the student, dependent children or a spouse of a person who is currently serving as a member of the military reserve on full-time active duty of more than thirty (30) calendar days and for whom Oklahoma is the home of record shall be eligible for in-state status.

E. Reserve Officer Training Corps (ROTC)

A person who is participating in or has received a partial or full scholarship from the Air Force, Army, or the Navy/Marines ROTC shall be eligible for in-state status, even if the scholarship has ended.

F. Oklahoma National Guard

A person who is a current member of the Oklahoma National Guard shall be eligible for in-state status.

G. To be eligible for in-state status as provided in this policy and to maintain eligibility, the student shall:

1. Have secured admission to and enrolls full-time or part-time in a program of study; and

2. Satisfy admission and retention standards.
- H. A student who meets the eligibility requirements for in-state status shall maintain in-state status if the student remains continuously enrolled at an institution within the State System after the student:
1. is discharged or released from active duty service;
  2. exceeds the five-year period after being discharged or released from active duty uniformed service;
  3. exhausts education assistance provided under Chapter 30, 31, 33 or 35 of Title 38 of the United States Code;
  4. exhausts education assistance provided under 38 U.S.C. § 3319; or

#### 3.18.9 Full-Time Professional Practitioner or Worker

A U.S. citizen or Lawful Permanent Resident who provides 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 dependents without the 12-month domiciliary requirement so long as they continue in full-time employment capacity or until they independently establish in-state status as described in this policy.

A full-time professional practitioner or worker who is temporarily assigned to another location but maintains domicile in Oklahoma shall be considered to have in-state status along with the practitioner's spouse and dependent children.