



TOPIC: Amendments to USM Policy VIII-2.70—Policy on Student Classification for Admission and Tuition Purposes

COMMITTEE: Finance

DATE OF COMMITTEE MEETING: March 12, 2015

SUMMARY: The passage of the Veterans Access, Choice, and Accountability Act of 2014 (38 U.S.C.A. §3679(c) by the U.S. Congress has necessitated a revision to the Board’s policy on student classification.

Specifically, the bill signed by President Obama in August requires that in order for education programs be approved for veterans, the public institution in which they enroll must charge tuition and fees at the same rate as residents of the State.

On October 24, 2014, the Board amended its policy on Student Classification for Admission and Tuition Purposes to reflect the requirements the Act.

However, based on further guidance and clarification provided by the U.S. Department of Veterans Affairs, it is necessary to further alter Section IV., found on pages 4 and 5 of the attachment, effective July 1, 2015.

The proposed amendments remove the requirement that the individual provide documentation of the intent to remain in Maryland and clarifies the applicable criteria for the veteran's spouse and children.

The attached amendments to the policy incorporate the new provisions, and have been submitted by the Office of the Attorney General.

ALTERNATIVES(S): The Committee could decline to recommend the amendments.

FISCAL IMPACT: Since tuition rates vary by institution, the impact will depend on the number of enrollees and selection of institution.

CHANCELLOR’S RECOMMENDATION: That the Finance Committee recommend that the Board of Regents adopt the proposed amendments to the Policy on Student Classification for Admission and Tuition Purposes.

COMMITTEE RECOMMENDATION:

DATE:

BOARD ACTION:

DATE:

SUBMITTED BY: Joseph F. Vivona (301) 445-1923

USM Bylaws, Policies and Procedures of the Board of Regents

VIII-2.70 POLICY ON STUDENT CLASSIFICATION FOR ADMISSION AND TUITION PURPOSES

(Approved by the Board of Regents August 28, 1990; Amended July 10, 1998; Amended November 27, 2000; Amended April 11, 2003; Amended June 23, 2006, Amended February 15, 2008, Amended October 24, 2014)

I. POLICY

A. Purpose

To extend the benefits of its system of higher education while encouraging the economical use of the State's resources,¹ it is the policy of the Board of Regents of the University System of Maryland (USM) to recognize the tuition categories of in-state and out-of-state students for the purpose of admission and assessing tuition at USM institutions.

B. Burden of Proof

The person seeking in-state status shall have the burden of proving by clear and convincing evidence that he or she satisfies the requirements and standards set forth in this Policy. Assignment of in-state or out-of-state status will be made by the applicable USM institution upon a review of the totality of facts known or presented to it.

C. In-state Status

To qualify for in-state tuition, a student must demonstrate that, for at least twelve (12) consecutive months immediately prior to and including the last date available to register for courses in the semester/term for which the student seeks in-state tuition status, the student had the continuous intent to:

1. Make Maryland his or her permanent home; and
2. Abandon his or her former home state; and
3. Reside in Maryland indefinitely; and
4. Reside in Maryland primarily for a purpose other than that of attending an educational institution in Maryland.

Satisfying all of the requirements in Section II (and Section III, when applicable) of this policy demonstrates continuous intent and qualifies a student for in-state tuition. Students not entitled to in-state status under this policy shall be assigned out-of-state status for admission and tuition purposes.

¹ Annotated Code of Maryland, Education Article, §12-101.

D. Presumption

Either of the following circumstances raises a presumption that the student is residing in the State of Maryland primarily for the purpose of attending an educational institution and therefore, does not qualify for in-state status under this policy:

1. A student is attending school or living outside Maryland at the time of application for admission to a USM institution, or
2. A student is Financially Dependent on a person who is not a resident of Maryland.

This presumption may be rebutted. The student bears the burden of rebutting the presumption. See "III. Rebuttal Evidence" below.

II. REQUIREMENTS

Before a request for classification to in-state status will be considered, a student must comply with all of the following requirements for a period of at least twelve (12) consecutive months immediately prior to and including the last date available to register for courses in the semester/term for which the student seeks in-state tuition status. The student must demonstrate he or she:

- A. Owns or possesses, and has continuously occupied, including during weekends, breaks and vacations, living quarters in Maryland. The student must provide evidence of a genuine deed or lease and documentation of rent payments made. In lieu of a deed or lease, a notarized affidavit from a landlord showing the address, name of the student as occupant, term of residence, and history of rent payments made will be considered. As an alternative, a student may demonstrate that he or she shares living quarters in Maryland which are owned or rented and occupied by a parent, legal guardian or spouse.
- B. Has substantially all of his or her personal property, such as household effects, furniture and pets in Maryland.
- C. Has paid Maryland income tax on all taxable income including all taxable income earned outside the State and has filed a Maryland tax return.
- D. Has registered all owned or leased motor vehicles in Maryland.
- E. Possesses a valid Maryland driver's license, if licensed.
- F. Is registered to vote in Maryland, if registered to vote.
- G. Receives no public assistance from a state other than the State of Maryland or from a city, county or municipal agency other than one in Maryland.
- H. Has a legal ability under Federal and Maryland law to live permanently without interruption in Maryland.

I. Has rebutted the presumption that he or she is in Maryland primarily to attend an educational institution, if the student's circumstances have raised the presumption.

III. REBUTTAL EVIDENCE

Satisfying the requirements listed in paragraphs A through I of Section II, does not rebut the presumption that a student is in Maryland primarily to attend an educational institution. To overcome the presumption, a student must present additional evidence.

To determine a student's intent, the University will evaluate evidence of a student's objectively verifiable conduct. Evidence that does not document a period of at least twelve (12) consecutive months immediately prior to and including the last date available to register for courses in the semester/term for which the student seeks in-state tuition status is generally considered an unfavorable factor under this policy. Evidence of intent must be clear and convincing and will be evaluated not only by the amount presented but also based upon the reliability, authenticity, credibility and relevance of the evidence.

The absence of objective, relevant evidence is generally considered an unfavorable factor. A student's statement of intent to remain in Maryland in the future is generally not considered to be objective evidence under this policy.

Additional evidence that will be considered includes, but is not limited to, the following:

A. Source of financial support:

1. Maryland employment and earnings history through sources beyond those incident to enrollment as a student in an educational institution e.g., beyond support provided by work study, scholarships, grants, stipends, aid, student loans, etc. (Tuition costs will be considered as a student expense only to the extent tuition exceeds the amount of any educational scholarships, grants, student loans, etc.), or

2. Evidence the student is Financially Dependent upon a person who is a resident of Maryland.

B. Substantial participation as a member of a professional, social, community, civic, political, athletic or religious organization in Maryland, including professionally related school activities that demonstrate a commitment to the student's community or to the State of Maryland.

C. Registration as a Maryland resident with the Selective Service, if male.

D. Evidence showing the student uses his or her Maryland address as his or her sole address of record for all purposes including on health and auto insurance records, bank accounts, tax records, loan and scholarship records, school records, military records, leases, etc.

E. An affidavit from a person unrelated to the student that provides objective, relevant evidence of a student's conduct demonstrating the student's intent to live permanently in Maryland.

IV. NON-RESIDENTS WHO MAY TEMPORARILY QUALIFY FOR IN-STATE STATUS

In addition, persons with the following status shall be accorded the benefits of in-state status for the period in which they hold such status:

- A. A full-time or part-time (at least 50 percent time) regular employee of USM or a USM institution.
- B. The spouse or Financially Dependent child of a full-time or part-time (at least 50 percent time) regular employee of USM or a USM institution.
- C. An active duty member of the Armed Forces of the United States who is stationed in Maryland, resides in Maryland, or is domiciled in Maryland, or the spouse or a Financially Dependent child of such ~~an active duty member, a person.~~ Spouses and children who qualify for exemptions under this provision will retain in-state status for tuition purposes as long as they are continuously enrolled, regardless of whether the active duty member's station assignment, residence, or domicile remains in Maryland.²
- D. A veteran of the Armed Forces of the United States who provides documentation that he or she was honorably discharged and currently resides or is domiciled in Maryland.^{3 4}
- E. A veteran, who ~~lives (1) is pursuing a course of education with educational assistance under Chapter 38 U.S.C. §30 or 38 U.S.C. §33; (2) currently resides in Maryland and ; (3) provides documentation that he or she was "discharged or released" honorably or "under honorable conditions" from a period of at least not fewer than 90 days of service in the active military, navynaval, or air service less than three years before the date of the veteran's enrollment and is pursuing a course of education with educational assistance under 38 U.S.C. §3001 or 38 U.S.C. §3301.⁵; and (4) produces evidence of his or her intent to remain permanently in Maryland⁶~~
- F. The spouse or child of a veteran, provided that :

~~(1) the veteran was discharged or released from a period of at least 90 daysmeets the criteria set forth in §IV.E of service in the active military, navy, or air service less than three years before this policy and (2) the spouse or child is entitled to assistance under 38 U.S.C. §3319. G. The child of a veteran provided that (1) the date of veteran meets the spouse or child's enrollment (or in the case criteria set forth in §IV.E of a spouse or child seeking benefits under the Post-9/11 G.I. Bill, this policy and (2) the veteran died in the line of duty on or after September 11, 2001 but less than three years before the date, in the line of duty while serving on active duty as a member of enrollment); the armed forces.~~

~~(2) the spouse or child is entitled to assistance under Post-9/11 G.I. Bill, , 38 U.S.C. §3319 and, 38 U.S.C. §3311(B)(9);~~

² ~~Annotated Code of Maryland, Education Article § 15-106.4.~~

³ ~~Annotated Code of Maryland, Education Article § 15-106.4.~~

⁴ ~~Annotated Code of Maryland, Education Article, §15-106.4.~~

⁵ ~~38 U.S.C.A. § 3679(c).~~

⁶ ~~To be codified as 38 U.S.C. §3679.~~

(3) the spouse or child currently lives in Maryland; and

(4) the spouse or child is pursuing a course of education with educational assistance under 38 U.S.C. §3001 or 38 U.S.C. §3301.⁷

GH. A member of the Maryland National Guard, as defined in the Public Safety Article of the Maryland Annotated Code, who joined or subsequently serves in the Maryland National Guard to: (i) provide a critical military occupational skill; or (ii) be a member of the Air Force Critical Specialty Code as determined by the National Guard.

H. For UMUC, a full-time active member of the Armed Forces of the United States on active duty, or the spouse of a member of the Armed Forces of the United States on active duty.

I. A graduate assistant appointed through a USM institution for the semester/term of the appointment. Except through prior arrangement, this benefit is available only for enrollment at the institution awarding the assistantship.

V. PROCEDURES

A. An initial determination of in-state status will be made at the time of admission. The determination made at that time, and any determination made thereafter, shall prevail for each semester/term until the determination is successfully challenged in a timely manner.

B. A change in status must be requested by submitting a USM institution's "Petition for Change in Classification for Tuition". A student applying for a change to in-state status must furnish all evidence that the student wishes the USM institution to consider at the time the petition is due. The due date is based on the deadline set forth by the USM institution at which the student seeks to enroll. If the applicable USM institution has no such deadline, the due date is the last published date to register for the forthcoming semester/term for which the change in classification is sought.

C. The student shall notify the USM institution in writing within fifteen (15) days of any change in circumstances which may alter in-state status.

D. In the event incomplete, false, or misleading information is presented, the USM institution may, at its discretion, revoke in-state status and take disciplinary action provided for by the institution's policy. Such action may include suspension or expulsion. If in-state status is gained due to false or misleading information, the institution reserves the right to retroactively assess all out-of-state charges for each semester/term affected.

E. Each USM institution shall develop and publish additional procedures to implement this Policy. Procedures shall provide that on request the institution President or designee has the authority to waive any requirement set forth in Section II if it is determined that the application of the requirements creates an unjust result. These procedures shall be filed with the Office of the Chancellor.

⁷ 38 U.S.C.A. § 3679(c).

VI. DEFINITIONS

A. Financially Dependent: For the purposes of this policy, a financially dependent student is one who is claimed as a dependent for tax purposes.

B. Parent: A parent may be a natural parent, or, if established by a court order recognized under the law of the State of Maryland, an adoptive parent.

C. Guardian: A guardian is a person so appointed by a court order recognized under the law of the State of Maryland.

D. Spouse: A spouse is a partner in a legally contracted marriage.

E. Child: A child is a natural child or a child legally adopted pursuant to a court order recognized under the law of Maryland.

F. Regular Employee: A regular employee is a person employed by USM or a USM institution who is assigned to a State budget line or who is otherwise eligible to enroll in a State retirement system. Examples of categories NOT considered regular employees are graduate students, contingent employees, and independent contractors.

G. Continuous Enrollment:

1. Undergraduate Student - An undergraduate student who is enrolled at a USM institution for consecutive fall and spring semesters, until completion of the student's current degree program or unless on an approved leave of absence or participating in an approved program off-campus.

2. Graduate and Professional - Continuous enrollment for a graduate or professional student is defined by the institution in accordance with program requirement.

VI. IMPLEMENTATION

This policy as amended by the Board of Regents on ~~October 24, 2014~~April 10, 2015 shall be applied to all student tuition classification decisions EFFECTIVE JULY 1, 2015 AND THEREAFTER.