

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

**COMMITTEE:** Finance

**DATE OF COMMITTEE MEETING:** January 26, 2017

**SUMMARY:** The policy has been revised to clarify criteria used for the two distinct purposes of the policy, i.e., initial determination of residency classification at the time of admission or readmission, and a change of classification for tuition purposes; and, to align policy with State practice.

The substantive changes to the criteria used for determination of classification relate to alignment with State regulations pertaining to obtaining a driver's license and/or motor vehicle registration; and, voter registration. Since the Maryland Motor Vehicle Administration requires individuals to change their license and registration within 60 days of moving to the State, the revision reflects that "grace period." The voter registration time requirement has been removed since there are no State requirements to do so within a certain period of moving to the State. (p. 2, items 4-6 on the attached) In both cases, the policy currently requires that the student has met the criteria for at least 12 consecutive months prior to and including the last date available to register for courses for the semester/term for which the student seeks in-state status.

**ALTERNATIVE(S):** The Committee could elect to modify or decline to recommend the proposed amendments.

**FISCAL IMPACT:** There is no anticipated fiscal impact.

**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, as presented.

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COMMITTEE RECOMMENDATION:

DATE:

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BOARD ACTION:

DATE:

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

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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, Amended April 10, 2015, Amended \_\_\_\_\_)

I. POLICY

A. Purpose

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

B. Qualification for In-State Status

Generally, in order to qualify for in-state status, a prospective, returning, or current student must demonstrate that he or she is a permanent Maryland resident. Under certain circumstances, as set forth in this Policy, students who are not permanent Maryland residents may qualify temporarily for in-state status. Students who do not qualify for in-state status under this Policy shall be assigned out-of-state status for admission and tuition purposes.

C. Standard of Proof

The student 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 each USM institution upon a review of the totality of facts known or presented to it.

II. DETERMINATION OF RESIDENCY STATUS

A. Criteria for Determination of Residency Status

An initial determination of residency status will be made at the time of admission and readmission based upon information provided by the student with the signed application certifying that the information provided is complete and correct. Additional information may be requested by the institution, to clarify facts presented. To qualify for in-state status, the student must demonstrate that for at least 12 consecutive months immediately prior to and including the last date available to register for courses for the semester/term for which the student seeks in-state status, the student had the continuous intent to reside in Maryland indefinitely and for a primary purpose other than that of attending an educational institution in Maryland. The student will demonstrate the requisite

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<sup>1</sup> Annotated Code of Maryland, Education Article, §12-101.

intent by satisfying all of the following requirements for the 12-month period (or shorter period indicated):

- 1) Has continuously maintained his or her primary living quarters in Maryland.
- 2) Has substantially all personal property, such as household effects, furniture, and pets, in Maryland.
- 3) Has paid Maryland income tax on all taxable income, including all taxable income earned outside of Maryland, and has filed a Maryland Resident Tax Return.
- 4) Has registered all owned or leased motor vehicles in Maryland for at least 12 consecutive months, if previously registered in another state. Students who have lived in Maryland for at least 12 consecutive months but who have had their motor vehicle(s) registered in Maryland for less than 12 months will be deemed to have satisfied this requirement if they can show evidence that their owned or leased motor vehicle(s) was (were) registered in Maryland within 60 days after moving to the state.
- 5) Has possessed a valid Maryland driver's license for at least 12 consecutive months, if previously licensed to drive in another state. Students who have lived in Maryland for at least 12 consecutive months but who have held a Maryland driver's license for less than 12 months will be deemed to have satisfied this requirement if they can show evidence that their driver's license was issued in Maryland within 60 days after moving to the state.
- 6) Is currently registered to vote in Maryland, if previously registered to vote in another state (no time requirement).
- 7) 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.
- 8) Has a legal ability under Federal and Maryland law to live permanently and without interruption in Maryland.

#### B. Presumption of Out-of-State Status

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. A student will be considered financially independent if the student provides 50% or more of his or her own living and educational expenses and has not been claimed as a dependent on another person's most recent tax returns.

### III. CHANGE IN CLASSIFICATION FOR TUITION PURPOSES

#### A. Petition for Change in Classification for Tuition Purposes

After the initial determination is made, a student seeking a change to in-state tuition status must submit a Petition for Change in Classification for Tuition Purposes that includes all of the information the student wishes the institution to consider. All information must be submitted by the institution's deadline for submitting a petition for the semester for which the student seeks reclassification. Only one Petition may be filed per semester.

#### B. Criteria for Change in Tuition Status

A student seeking reclassification from out-of-state to in-state tuition status must demonstrate, by clear and convincing evidence, that for at least twelve (12) consecutive months immediately prior to and including the last date available to register for courses for 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; 2) abandon his or her former home state; 3) reside in Maryland indefinitely; and reside in Maryland primarily for a purpose other than that of attending an educational institution in Maryland.

A student will demonstrate the requisite intent by satisfying all of the following requirements for a period of at least twelve (12) consecutive months (or for the shorter period of time indicated) 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. 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 and the totality of facts known to the institution. The student must demonstrate (providing appropriate documentation as necessary) that for the relevant period he or she:

- 1) Continuously maintained his or her primary living quarters in Maryland.
- 2) Has substantially all of his or her personal property, such as household effects, furniture and pets, in Maryland.
- 3) Has paid Maryland income tax on all taxable income including all taxable income earned outside the State and has filed a Maryland Resident Tax Return.
- 4) Has registered all owned or leased motor vehicles in Maryland for at least 12 consecutive months, if previously registered in another state. Students who have lived in Maryland for at least 12 consecutive months but who have had their motor vehicle(s) registered in Maryland for less than 12 months will be deemed to have satisfied this requirement if they can show evidence that their owned or leased motor vehicle(s) was (were) registered in Maryland within 60 days after moving to the state.

- 5) Has held a valid Maryland driver's license, if licensed, for at least 12 consecutive months, if a driver's license was previously held in another state Has possessed a valid Maryland driver's license for at least 12 consecutive months, if previously licensed to drive in another state. Students who have lived in Maryland for at least 12 consecutive months but who have held a Maryland driver's license for less than 12 months will be deemed to have satisfied this requirement if they can show evidence that their driver's license was issued in Maryland within 60 days after moving to the state.
- 6) Is currently registered to vote in Maryland, if previously registered to vote in another state (no time requirement).
- 7) 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.
- 8) Has a legal ability under Federal and Maryland law to live permanently without interruption in Maryland.
- 9) Has either not raised the presumption set forth in Section II.B above; or alternatively, if the student's circumstances have raised the presumption set forth in Section II.B above, the student has rebutted that presumption.

### C. Rebuttal Evidence

If the information received by the institution about the student has raised the presumption set forth in Section II.B, the student bears the burden of rebutting the presumption set forth in Section II.B by presenting additional evidence of objectively verifiable conduct to rebut the presumption and show the requisite intent. Rebuttal 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 and the totality of facts known to the institution. 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. 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.

For purposes of rebutting the presumption, additional evidence that will be considered includes, but is not limited to:

- 1) Source of financial support:
  - a. 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
  - b. Evidence the student is Financially Dependent, for the previous 12 months, upon a person who is a resident of Maryland.

- 2) 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.
- 3) Registration as a Maryland resident with the Selective Service, if applicable.
- 4) Evidence that the student is married to a Maryland resident.
- 5) Evidence that the student attended schools in Maryland for grades K-12.
- 6) 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.
- 7) 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 reside in Maryland primarily for a purpose other than that of attending an educational institution in Maryland.
- 8) Evidence of life and employment changes that caused the student to relocate to Maryland for reasons other than primarily educational purposes (e.g. divorce, family relocation, taking care of a sick family member, etc.)

#### D. Appeal

A student may appeal an adverse decision on a Petition for Change in Classification.

#### E. Change in Circumstances Altering In-State Status

The student shall notify the USM institution in writing within fifteen (15) days of any change in circumstances which may alter in-state status. Failure to do so could result in retroactive charges for each semester/term affected.

#### F. Incomplete, Untimely, False or Misleading Information

If necessary information is not provided by the institution's deadline, the USM institution may, at its discretion, deny or revoke in-state status. 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 policies. Such action may include suspension or expulsion. In such cases, the institution reserves the right to retroactively assess all out-of-state charges for each semester/term affected.

### IV. CRITERIA FOR TEMPORARY QUALIFICATION OF NON-RESIDENTS FOR IN-STATE STATUS

Non-residents with the following status shall be accorded the benefits of in-state status for the period in which they hold such status, if they provide clear and convincing evidence through documentation, by the institution's deadline for the semester for which they seek in-state status, showing that they fall within one of the following categories:

- A. A full-time or part-time (at least 50 percent) 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) regular employee of USM or a USM institution.
- C. An active duty member of the Armed Forces of the United States as defined in 38 U.S.C.A. § 101(10) as the United States Army, Navy, Marine Corps, Air Force, and Coast Guard, including the reserve components thereof, who is stationed in Maryland, resides in Maryland, or is domiciled in Maryland, or his/her spouse or a financially dependent child of that active duty member. 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.<sup>2</sup>
- 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.<sup>3</sup>
- E. A veteran who lives in Maryland and was discharged from a period of at least 90 days of service in the active military, navy, 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.<sup>4</sup>
- F. The spouse or child of a veteran, provided that:
  - 1) the veteran was discharged or released from a period of at least 90 days of service in the active military, navy, or air service less than three years before the date of the spouse or child's enrollment (or in the case of a spouse or child seeking benefits under the Post-9/11 G.I. Bill, the veteran died in the line of duty on or after September 1, 2001 but less than three years before the date of enrollment);
  - 2) the spouse or child is entitled to assistance under the Post-9/11 G.I. Bill, 38 U.S.C. §3319 and 38 U.S.C. §3311(B)(9);
  - 3) the spouse or child currently resides 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.<sup>5</sup>
- G. 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, only, a full-time active member of the Armed Forces of the United States on active duty, or his/her spouse.
- 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.

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<sup>2</sup> Annotated Code of Maryland, Education Article § 15-106.4.

<sup>3</sup> Id.

<sup>4</sup> 38 U.S.C.A. § 3679(c).

<sup>5</sup> Id.

## V. ADDITIONAL PROCEDURES

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.

## VI. DEFINITIONS

- A. Financially Dependent: For the purposes of this Policy, a financially dependent student is one who has been claimed as a dependent on another person's prior year tax returns or is a ward of the State of Maryland.
- B. Financially Independent: For the purposes of this Policy, a financially independent student is one who provides 50% or more of his or her own living and educational expenses and has not been claimed as a dependent on another person's most recent tax returns.
- C. 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.
- D. Guardian: A guardian is a person so appointed by a court order recognized under the laws of the State of Maryland.
- E. Spouse: A spouse is a partner in a legally contracted marriage.
- F. Child: A child is a natural child or a child legally adopted pursuant to a court order recognized under the law of Maryland.
- G. 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
- H. 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.
- I. Armed Forces of the United States: As defined in 38 U.S.C.A. § 101(10) as the United States Army, Navy, Marine Corps, Air Force, and Coast Guard, including the reserve components thereof.

## VI. IMPLEMENTATION

This Policy as amended by the Board of Regents on [DATE OF BOR MEETING] shall be applied to all student tuition classification decisions effective Spring semester 2018 and thereafter.