

# RESIDENCY CLASSIFICATION GUIDE

*These regulations supersede all regulations concerning classification of persons for fees and tuition and admissions purposes previously filed prior to May 27, 1986 and effective prior to August 12, 1986.*

## INTENT

It is the intent that the public institution of higher education in the State of Tennessee shall apply uniform rules, as described in these regulations and not otherwise, in determining whether students shall be classified "instate" or "out-of state" for fees and tuition purposes and for admission purposes.

Authority: Public Arts of Tennessee, 1839-1840, chapter 98, Section 5 and Public Acts of Tennessee, 1807, chapter 64, Administrative History: Original rule filed November 23, 1976; effective December 23, 1976; Repeal and new rule file May 27, 1986; effective August 12, 1986.

## DEFINITIONS

*(Whenever used in these regulations)*

- (1) "**Public higher education institution**" shall mean a university or community college supported by appropriations made by the Legislature of this State.
- (2) "**Residence**" shall mean continuous physical presence and maintenance of the dwelling place within the State, provided that absence from the State for short periods of time shall not affect the establishment of residence.
- (3) "**Domicile**" shall mean a person's true, fixed, and permanent home and place of habitation.; it is the place where he intends to remain; and to which he or she expects to return when he or she leaves without intending to establish a new domicile elsewhere.
- (4) "**Emancipated person**" shall mean a person who is no longer in care, custody, and control of his or her parent.
- (5) "**Parent**" shall mean a person's father or mother. If there is a non-parental guardian or legal custodian of an unemancipated person, then "parent" shall mean such guardian or legal custodian; provided, that there are not circumstances indicating that such guardianship or custodianship was created primarily for the purpose of conferring the status of an instate student on such emancipated person.
- (6) "**Continuous enrollment**" shall mean enrollment at a public higher education institution or institutions of this State as a full-time student, as such term is defined by the governing body of the said public higher institution or institutions, for a normal academic year or years or the appropriate portion or portions thereof since the beginning of the period for which continuous enrollment is claimed. Such person need not enroll in summer sessions or such inter-sessions beyond the normal academic year in order that his or her enrollment be deemed "continuous". Enrollment shall be deemed continuous notwithstanding lapses in enrollment occasioned solely by the scheduling of the commencement and/or termination of the academic years, or appropriate portion thereof, of the public higher educational institutions in which such person enrolls.

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## RULES FOR DETERMINATION OF STATUS

- (1) Every person having his or her domicile in this State shall be classified "instate" for fee and tuition purposes and for admission purposes.
- (2) Every person not having his or her domicile in this State shall be classified "out-of-state" for said purposes.

- (3) The domicile of an unemancipated person is that of his or her parent. Unemancipated students of divorced parents shall be classified "instate" when one parent, regardless of custodial status, is domiciled in Tennessee.

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### **OUT-OF-STATE STUDENTS WHO ARE NOT REQUIRED TO PAY OUT-OF-STATE TUITION**

- (1) An unemancipated, currently enrolled student shall be reclassified out-of-state student should his or her parent, having theretofore been domiciled in the State, remove from the State. However, such student shall not be required to pay out-of-state tuition nor be treated as an out-of-state student for admission purposes so long as his or her enrollment at a public higher educational institution or institutions shall be continuous.
- (2) An unemancipated person whose parent is not domiciled in this State but is a member of the armed forces and stationed in this State, or who are stationed at Fort Campbell pursuant to military orders shall be classified out-of-state but shall not be required to pay out-of-state tuition. Such a person, while in continuous attendance toward the degree for which he or she is currently enrolled, shall not be required to pay out-of-state tuition if his or her parent thereafter is transferred on military orders.
- (3) A person whose domicile is in a county or another state lying immediately adjacent to Montgomery County, or whose place of residence is within thirty (30) miles of Austin Peay University shall be classified out-of-state but shall not be required to pay out-of-state tuition at Austin Peay University. Provided, however, that there be no teacher college or normal school within the non-resident's own state, of equal distance to the said nonresident's bona fide place of residence.
- (4) Part-time students who are not domiciled in this State, but who are employed full-time in the State or who are stationed at Fort Campbell pursuant to military orders, shall be classified out-of-state but not be required to pay out-of-state tuition. This shall apply to part-time students who are employed in the State by more than one employer, resulting in the equivalent of full-time employment.
- (5) Military personnel and their spouses stationed in the State of Tennessee who should be classified as out-of-state in accordance with other provisions of these regulations will be classified as out-of-state but shall not be required to pay out-of-state tuition.
- (6) A person who is domiciled in the Kentucky counties of Fulton, Hickman, or Graves shall be classified as out-of-state and shall not be required to pay out-of-state tuition at The University of Tennessee at Martin if qualified for admission. This exemption is on the condition that Murray State University in Murray, Kentucky continue to admit Tennessee residents from selected Tennessee counties to enroll in that institution without payment of out-of-state tuition.
- (7) Any dependent child not domiciled in Tennessee but who qualifies and is selected to receive a scholarship under the Dependent Children Scholarship Act (T.C.A. 49-4-704) because his or her parent is a law enforcement officer, fireman, or emergency service technician who was killed or totally and permanently disabled while performing duties within the scope of employment, shall be classified as out-of-state but shall not be required to pay out of state tuition.
- (8) The spouse of a student classified as "instate" shall also be classified "instate".
- (9) Students not domiciled in Tennessee but are selected to participate in specified institutional undergraduate Honors Programs shall be classified as out-of-state but shall not be required to pay out of state tuition.
- (10) A person whose domicile is in Mississippi County, Arkansas, or either Dunkin County or Pemiscot County, Missouri, and who is admitted to Dyersburg State Community College, shall be classified as out-of-state but shall not be required to pay out of state tuition.

- (11) A person who is not domiciled in Tennessee, but has a bona fide place of residence in a county which is adjacent to the Tennessee state line and which is also within a 30 mile radius (as determined by THEC.) of a city containing a two year TBR institution, shall be classified as out-of-state but shall not be required to pay out of state tuition. The two-year institution may only admit up to three percent (3%) of the full-time equivalent attendance of the institution without out-of-state tuition. (THEC may adjust the number of non-residents admitted pursuant to this section every three (3) years.) (See T.C.A. 49-8-102)

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### **PRESUMPTION**

Unless the contrary appears from clear and convincing evidence, it shall be presumed that an emancipated person does not acquire domicile in this State while enrolled as a full-time student at any public or private higher educational institution in this State, as such as status is defined by such institution.

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### **EVIDENCE TO BE CONSIDERED FOR ESTABLISHMENT OF DOMICILE**

If a person asserts that he or she has established domicile in this State he or she has the burden of proving that he or she has done so. Such a person is entitled to provide to public higher educational institution by which he seeks to be classified or reclassified as instate, any and all evidence, which he or she believes will sustain his or her burden of proof. Said institution will consider any and all evidence provided to it concerning such claim of domicile but will not treat any particular type or item of such evidence as conclusive evidence that domicile has or has not been established.

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### **APPEAL**

The classification officer of each public higher educational institution shall be responsible for initially classifying students either "instate" or "out-of-state". Appropriate procedures shall be established by each such institution which a student may appeal his or her initial classification.

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### **EFFECTIVE DATE FOR RECLASSIFICATION**

If a student classified out-of-state applies for instate tuition and is subsequently classified his or her instate classification shall be effective as of the date on which the reclassification was sought. However, out-of-state tuition will be charged for any quarter or semester during which reclassification is sought and obtained unless application for reclassification is made to the classification officer on or before the last day of regular registration of that quarter or semester.

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