



## **RP-5.7.1 Residency Determination for Tuition Purposes**

### **1. Preamble**

Pursuant to Article VII, Section 10 of the Constitution of the State of Nebraska, and Neb. Rev. Stat., 85-501 and 85-502 (1980 Supp.), the University has been authorized to develop regulations and make determinations regarding Nebraska residency for tuition purposes. These regulations provide the bases upon which University staff shall determine, on a uniform intercampus basis, whether an individual qualifies as a Nebraska resident for tuition purposes. It should be emphasized that the statutes provide a set of minimum standards which will govern a determination of resident status for tuition purposes only. In some instances it will be possible that an individual may qualify as a "resident" of Nebraska for one purpose (such as securing a Nebraska driver's license) and still not meet the standards established by the Board of Regents for resident tuition status. Individuals seeking a Nebraska residency determination for tuition purposes should, therefore, carefully study all aspects of the law and these regulations before seeking resident tuition status. These regulations require that a determination of resident status be made "at the time of each registration." In addition, state law guarantees that once an individual has been enrolled at the University or one of the Nebraska state colleges as a resident student, he or she shall be afforded that privilege during the balance of that and any subsequent enrollments at the University, provided the student is readmitted within a two year time period. It should be noted that an individual who moves to Nebraska primarily to enroll in an institution of higher education of the state is presumed to be a non-resident for tuition purposes for the duration of his or her attendance at the University. Individuals seeking to establish resident status for tuition purposes who are subject to the 12 months minimum requirement must have established a home in Nebraska at least 12 months prior to the time at which they request such a determination. In addition, they must also initiate the various other domiciliary contacts which will support their application within a reasonable period of time after they have established their domicile in Nebraska. That is, it will not be sufficient to show only that they have established a home in Nebraska for 12 months. They will also be expected to demonstrate that the supporting contact points, such as a Nebraska driver's license and Nebraska checking or savings accounts, have also been held for a reasonable period of time. Individuals seeking a resident student determination for tuition purposes will be required to sign a notarized affidavit attesting to the truth of their statements. If it is subsequently determined that an individual has falsified such a statement, he or she may be subjected to disciplinary action by the University before the individual will be permitted to continue with his or her studies at the University. Such disciplinary action will be determined on an individual basis, and may include measures such as disciplinary probation or suspension, expulsion from the University, or a

requirement that the individual reimburse the University for the difference between the tuition paid and nonresident tuition rate.

## **2. Definitions**

For the purpose of these regulations, the following definitions shall apply:

- a. Resident Fees shall mean the resident tuition rate set by the Board of Regents applicable to the academic program in which an individual intends to enroll.
- b. Non-Resident Fees shall mean the nonresident tuition rate set by the Board of Regents applicable to the academic program in which an individual intends to enroll.
- c. Legal Age shall be the age of majority set by Nebraska statute.
- d. Emancipated Minor shall mean an individual who by virtue of marriage, financial status, or for other reasons, has become independent of his or her parents or guardians.
- e. The phrase "established a home" shall mean that an individual continuously maintains a primary place of residence in Nebraska where the individual is habitually present.
- f. Legal Residence shall mean the place of domicile or permanent abode as distinguished from temporary residence.
- g. Dependent refers to a person who is claimed as a dependent or an exemption for federal income tax purposes by a parent, guardian, or spouse.

## **3. Resident Tuition Categories**

An individual will qualify as a resident of the State of Nebraska for tuition purposes at the University of Nebraska if, prior to the commencement of the term for which residency is sought, he or she meets the standards set forth in any one of the following eleven categories:

- a. A person of legal age or an emancipated minor who for a period of 12 months shall have established a home in Nebraska where he or she is habitually present, and shall verify by documentary proof that he or she intends to make Nebraska his or her permanent residence.
- i. In addition to documentation of occupancy of a home or residence in Nebraska for the previous period of 12 months, intent to make Nebraska a permanent residence may be demonstrated by factors including, but not limited to, the following:
  - (1) a current Nebraska driver's license;
  - (2) documentation that the individual is registered to vote in Nebraska;
  - (3) a current Nebraska automobile registration in the individual's name;
  - (4) documentation of individual checking or savings accounts maintained with a Nebraska financial institution;
  - (5) documentation of current employment in Nebraska, and withholding of Nebraska income tax;
  - (6) copies of the provisions of an individual's most recent state income tax return indicating a Nebraska taxpayer status.

ii. An individual who moves to Nebraska primarily to enroll in an institution of higher education of the state is presumed to be a non-resident for tuition purposes for the duration of his or her attendance at the University.

iii. An individual claiming Nebraska resident status under this section will not be granted such a determination if he or she has claimed resident status in any other state within the past 12 months.

b. A minor whose parent, parents, or guardian have established a home in Nebraska where such parent, parents, or guardian are habitually present with the bona fide intention of making Nebraska their permanent place of residence.

1) For the purpose of this section, an individual shall be required to present documentary proof that his or her parent, parents, or guardians have established a home in Nebraska. Such proof shall consist of the following:

(1) documentation that the parent or guardian has established a home in Nebraska;

(2) documentation that the individual seeking a resident tuition determination is a dependent for federal income tax purposes of the parent or guardian who has established a home in Nebraska; and

(3) other supporting documents of the parent or guardian's Nebraska residency including, but not limited to, the following factors: a current Nebraska driver's license; documentation that the individual is registered to vote in Nebraska; a current Nebraska automobile registration in the individual's name; documentation of individual checking or savings account maintained with a Nebraska financial institutions; or documentation of current employment in Nebraska.

2) For purposes of this section, an individual, once enrolled as a resident student, whose parent, parents, or guardian have previously established a home in Nebraska, as documented through evidence such as that outlined in section 3b(1) above, shall continue to be classified as a resident for tuition purposes if the parent, parents, or guardian upon whom he or she remains dependent move from the state.

3) There shall be no minimum period of residence for the parent or guardian under this section.

c. A person of legal age who has established a home in Nebraska and is a dependent for federal income tax purposes of a parent or former legal guardian who has established a home in Nebraska.

1) For the purposes of this section, an individual shall be required to present the following:

a) documentation that both he or she and the parent or former guardian have established a home in Nebraska. Such documentation shall be the same as that required under section 3b(1) above; and

b) documentation that he or she is, for federal income tax purposes, the dependent of the parent or former guardian for the most recent tax year.

2) There shall be no minimum period of residence under this section.

d. An individual who has married a resident of Nebraska.

1) For the purpose of this section, an individual shall be required to verify that he or she is married to an individual who, prior to the marriage, had already established a home in Nebraska. Such verification shall consist of:

a) a valid marriage license; and

b) documentation of his or her spouse's Nebraska resident status, as required in section 3a above.

e. An individual who has become a permanent resident alien of the United States or has been granted asylee or refugee status.

1) For the purposes of this section, an individual will be required to present documentation that he or she:

a) has been a resident of the State of Nebraska for a period of at least 12 months, verified as required in section 3a(1) above ; and

b) is a holder of a permanent resident alien, asylee, or refugee status.

f. An individual who is a staff member or a dependent or spouse of a staff member of the University of Nebraska, one of the Nebraska state colleges, or one of the technical community college areas. For the purposes of this section, an individual will be required to verify that he or she is either: a permanent staff member holding at least a .5 FTE appointment at the University, one of the Nebraska state colleges, or one of the Nebraska community technical college areas; or the spouse or a dependent of such a staff member for federal income tax purposes.

g. An individual on active duty with the armed services of the United States, and who has been assigned a permanent duty station in Nebraska, or a spouse or dependent of an individual who has been assigned a permanent duty station in Nebraska.

1) An individual on active duty with the United States armed services will be granted resident tuition status if he or she verifies:

a) that he or she is on active duty with the armed forces; and

b) that his or her permanent duty station is in Nebraska.

2) An individual who is a spouse or a dependent of a person on active duty with the United States armed services will be granted resident tuition status if he or she verifies that he or she is a spouse or a dependent, for federal income tax purposes, of an individual meeting the qualifications outlined in section 3g(1) above.

3) There shall be no minimum period of residence under this section.

h. An individual who has established a home in Nebraska and is a graduate of an accredited Nebraska senior high school and was a legal resident of the state at the time of graduation.

1) For the purposes of this section, documentary proof of a Nebraska residence shall consist of:

a) documentation that the individual has established a home or residence in Nebraska; and

b) evidence such as that outlined in section 3a(1);

c) an official transcript from an accredited Nebraska senior high school indicating that the individual graduated from that school.

2) There shall be no minimum period of residence for the individual under this section.

i. An individual who has been enrolled at the University or one of the Nebraska state colleges as a resident student, shall be afforded that privilege during the balance of that and any subsequent enrollments at the University, provided the student is readmitted within a two year time period.

- j. Members of Native American Tribes that are indigenous to or have historically migrated to or from the State of Nebraska.
- k. Individuals who, because of their special talents and skills, were recruited to Nebraska for full-time employment in the state, or were transferred to Nebraska by a business entity, and the spouses or dependents of such individuals, shall be exempted from the 12-month domicile rule.

#### **4. Non-Residents Who Pay Nebraska Income Tax**

Individuals who reside outside of Nebraska but pay Nebraska income tax, and the spouses or dependents of such individuals, are entitled to tuition credit upon documented evidence of such payment to the State. The tuition credit granted shall equal the amount of Nebraska income tax paid for the immediately preceding calendar year except that the remaining obligation cannot be less than the amount of the resident tuition.

#### **5. Affidavit**

Individuals requesting resident tuition status shall be required to complete a notarized affidavit outlining the reasons under which they believe that they qualify and attesting to the accuracy of their statements. Completion of a falsified affidavit shall subject the individual to possible University disciplinary action.

#### **6. Appeals**

An individual who believes that he or she has been incorrectly denied a resident tuition determination may appeal that decision through channels established by the Chancellor of the campus where the adverse decision was made. The decision by the Chancellor or his or her designee shall be final in any such appeals.

#### **7. Severability**

If any section of these regulations or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.

#### **8. Implementation**

This revised policy on residency determination for tuition purposes will become effective in the 1995-96 academic year.