

Residency for Tuition Purposes

I. General Definition: Residency for Tuition Purposes

- A. Establish "Legal Residency"
- B. Maintain Legal Residency for 12 Months

II. Establishing Legal Residency

- A. Physical Presence
- B. *Bona Fide* Intention to be a Permanent Resident

III. Twelve Month Qualifying Period

IV. Exceptions to the Residency Requirements

V. Responsibilities of the Individual Seeking In-State Residency

VI. Deadline for Application

VII. North Carolina General Statutes

I. Residency for Tuition Purposes:

Under N. C. General Statutes GS 116-143.1(b), to qualify as a resident for tuition purposes, a person must:

- a. Established legal residency (domicile) in North Carolina, and**
- b. Have maintained that legal residence for at least 12 months prior to being considered for in-state residency.**

For any person under 18 years old, the traditional common law generally presumes that minors share the same legal residency as their parents. Thus, if both parents have established legal residency, the minor will also have legal residency in N. C. If the minor's parents are divorced/separated with one living in N. C. and one living out-of-state, the minor may be presumed to share legal residency with the in-state parent if the in-state parent claims the minor as a dependent for tax purposes. Some exceptions exist (see GS 116-143.1(j) and k).

The remainder of this informational web page will apply generally to students who are 18 or older.

II. Establishing "Domicile" or Legal Residency:

A. To be a legal resident in North Carolina, a student must first physically live in the State. This is a simple test of where one has a dwelling or home.

B. The student must also show a *bona fide* or "good faith" intention of staying in the State permanently or at least for an indefinite amount of time (GS 116-143.1 (c)). This is a more difficult test than physical presence, but the key element is that the student plans to establish permanent residency in N.C. and is not in North Carolina only to go to school.

To determine a student's intentions, all relevant factors must be evaluated, especially a student's conduct. Several actions, if done in North Carolina, will be used as indicators of intent to remain in the State. The following acts are examples of what may serve as evidence of residentiary intent:

- 1. Paying North Carolina state taxes;**
- 2. Having a North Carolina driver's license;**
- 3. Having one's car registered and licensed in the State;**
- 4. Voter registration;**
- 5. Owning a house or land in N.C.;**
- 6. Employment in N.C.;**
- 7. Having bank accounts in the State;**
- 8. Spending substantial time in the State during vacations and holidays;**
- 9. Maintaining social and business relations in the State;**
- 10. Parents are residents in the State (will be used as a factor even if the student is over 18-years old (GS 116-143.1(e));**
- 11. Serving on jury duty.**

Factors generally *unfavorable* to students attempting to establish in-state residency include:

- 1. Student does any of the activities listed above in another state (such as maintaining a driver's license in another state, owning a house in another state, etc.);**
- 2. Student first begins living in North Carolina only after enrolling in a public university;**
- 3. Student lives in the State only while in school and returns to another state during vacations and holidays;**
- 4. A parent or someone outside North Carolina provides financial support;**
- 5. Student leaves permanent possessions in another state and only brings to North Carolina what is necessary for temporary stay.**

Legal residence also requires that the student have the legal capacity to remain permanently in North Carolina. For persons who are not U.S. citizens, the visa classification is important to legal capacity for residency. Persons who hold immigrant visas usually have the capacity to remain permanently in North Carolina, as do persons who hold a "green card" (Form I-151 or I-551). Some non-immigrant visas may be suitable to establish capacity for North Carolina residency. However, the following visa categories are legally incapable of qualifying for North Carolina residency: B, C, D, F, J, M, P, Q, and S. Persons with those types of visas will have to pay out-of-state tuition.

III. Twelve Month Qualifying Period:

Once "legal residency" is established, the student must show that she/he has maintained legal residency in North Carolina for at least 12 months (GS 116-143.1(b)). This includes both the physical presence requirement and that during the 12 months the student had a good faith intention of establishing permanent residency. A student must meet the 12-month requirement before the beginning of the semester to qualify for in-state tuition. For example, if the student meets the 12-month requirement in the middle of the fall semester, the student will be eligible for in-state tuition in the following spring semester, but not the current semester.

IV. Exceptions:

In some instances, students may be eligible for in-state tuition without fulfilling the residency requirements, or for tuition waivers:

- 1. Active duty members of the armed services are charged in-state tuition while abiding in North Carolina incident to active military duty in this State. This applies to reservists too. "Abiding" means living here, even without intent to make it one's permanent home. If subsequently reassigned outside N.C., the members continues to receive instate tuition as long as the member remains continuously enrolled in the degree or other program he/she was in prior to reassignment. (GS 116-143.3(a) and (b));**
- 2. A dependent relative who shares the abode of the member of the armed services who is in N.C. on active duty will also receive in-state tuition. Individuals who are dependents of military personnel and live with that member of the military while the member is stationed in N.C. (GS 116-143.3 (c));**
- 3. A legal resident will not lose residency status due to service in the military at locations outside of N.C. (GS 116-143.1(h)) .**
- 4. Under GS 115B-2, tuition waivers apply to N.C. residents over 65, and to survivors of law enforcement officers, firefighters, and rescue workers who die or are disabled in the line of duty.**
- 5. A non-resident who marries a resident, and also becomes a legal resident himself/herself, accedes to the spouse's residency time in N.C. for purposes of satisfying the 12-month requirement. (GS 116-143.1(g)) .**
- 6. If a student establishes residency for tuition purposes, then loses it while enrolled in a State institution of higher education, he or she has a 12-month grace period (extended to the end of any term in which he/she is enrolled) for in-state tuition. (GS 116-143.1 (i));**
- 7. When a legal resident ceases to be enrolled at an institution of higher education, and then abandons North Carolina domicile, he or she may reenroll at an institution of higher education as a resident for tuition purposes without meeting the 12-month durational requirement if the person reestablishes North Carolina domicile within 12 months of abandonment of North Carolina domicile and continuously maintains the reestablished North Carolina domicile at least through the beginning of the academic term(s) for which in-State tuition status is sought. (GS 116-143.1 (l)) .**

V. Procedures: Responsibilities of the Individual Seeking In-State Residency:

The Registrar will initially classify each student as either eligible for in-state tuition or ineligible. The student has the responsibility of providing information to determine her/his classification of residency (see GS 116-143.1(d)).

A student's initial classification when enrolled may subsequently change if the student circumstances change. The student then has the responsibility of petitioning the University for a change in status before a new semester begins. Both graduate and undergraduate students must complete a "Residence-and-Tuition Status Application." These forms are available from the Office of the Registrar. Along with the application, students must include copies of the following:

- 1. N.C. driver's license;**
- 2. N.C. vehicle registration;**
- 3. N.C. voter registration;**
- 4. N.C. and federal income tax returns;**
- 5. Wage earning statements from all jobs held for the current year;**
- 6. Listing of personal property taxes;**
- 7. Student-loan agreements, financial aid forms, and so forth, if applicable;**
- 8. A marriage certificate if residency is being based upon a spouse's residency acts, and copies of those acts;**
- 9. For non-United States citizens, a residence Supplemental Status Form accompanied by copies, both front and back, of an individual's approval for permanent residence status showing the date of adjudication by the Immigration and Naturalization Service or other document provided by INS.**

The student must provide enough favorable information to show by a "preponderance of the evidence" (or 51% of the evidence) that the student has fulfilled the requirements to receive in-state tuition. A student may appeal a determination to the Residency Appeals Committee and subsequently to the State Residency Committee.

The University may also initiate an investigation if there is reason to believe a change has occurred that could alter a student's classification to "non-resident." The student is responsible for providing the University with any new information that could change her/his residency status. Failure by a student to provide such information could lead to disciplinary action such as cancellation of registration and enrollment.

VI. Deadline for Application

The deadline to submit a reclassification application along with all supporting documentation is the 10th business day of the term for which the student is seeking residency reclassification.

VII. Residency Statutes

CHAPTER 116. HIGHER EDUCATION
ARTICLE 14. GENERAL PROVISIONS AS TO TUITION AND FEES IN CERTAIN
STATE INSTITUTIONS
[effective August 1, 2004]

§ 116-143. State-supported institutions of higher education required to charge tuition and fees

The Board of Governors of the University of North Carolina shall fix the tuition and fees, not inconsistent with actions of the General Assembly, at the institutions enumerated in G.S. 116-4 in such amount or amounts as it may deem best, taking into consideration the nature of each institution and program of study and the cost of equipment and maintenance; and each institution shall charge and collect from each student, at the beginning of each semester or quarter, tuition, fees, and an amount sufficient to pay other expenses for the term.

In the event that said students are unable to pay the cost of tuition and required academic fees as the same may become due, in cash, the said several boards of trustees are hereby authorized and empowered, in their discretion, to accept the obligation of the student or students together with such collateral or security as they may deem necessary and proper, it being the purpose of this Article that all students in State institutions of higher learning shall be required to pay tuition, and that free tuition is hereby abolished.

Inasmuch as the giving of tuition and fee waivers, or especially reduced rates, represent in effect a variety of scholarship awards, the said practice is hereby prohibited except when expressly authorized by statute or by the Board of Governors of the University of North Carolina; and, furthermore, it is hereby directed and required that all budgeted funds expended for scholarships of any type must be clearly identified in budget reports.

Notwithstanding the above provision relating to the abolition of free tuition, the Board of Governors of the University of North Carolina may, in its discretion, provide regulations under which a full-time faculty member of the rank of full-time instructor or above, and any full-time staff member of the University of North Carolina may during the period of normal employment enroll for not more than one course per semester in the University of North Carolina free of charge for tuition, provided such enrollment does not interfere with normal employment obligations and further provided that such enrollments are not

counted for the purpose of receiving general fund appropriations.

§ 116-143.1. Provisions for determining resident status for tuition purposes.

(a) As defined under this section:

(1) A "legal resident" or "resident" is a person who qualifies as a domiciliary of North Carolina; a "nonresident" is a person who does not qualify as a domiciliary of North Carolina.

(2) A "resident for tuition purposes" is a person who qualifies for the in-State tuition rate; a "nonresident for tuition purposes" is a person who does not qualify for the in-State tuition rate.

(3) "Institution of higher education" means any of the constituent institutions of the University of North Carolina and the community colleges under the jurisdiction of the State Board of Community Colleges.

(b) To qualify as a resident for tuition purposes, a person must have established legal residence (domicile) in North Carolina and maintained that legal residence for at least 12 months immediately prior to his or her classification as a resident for tuition purposes. Every applicant for admission shall be required to make a statement as to his length of residence in the State.

(c) To be eligible for classification as a resident for tuition purposes, a person must establish that his or her presence in the State currently is, and during the requisite 12-month qualifying period was, for purposes of maintaining a bona fide domicile rather than of maintaining a mere temporary residence or abode incident to enrollment in an institution of higher education.

(d) An individual shall not be classified as a resident for tuition purposes and, thus, not rendered eligible to receive the in-State tuition rate, until he or she has provided such evidence related to legal residence and its duration as may be required by officials of the institution of higher education from which the individual seeks the in-State tuition rate.

(e) When an individual presents evidence that the individual has living parent(s) or court-appointed guardian of the person, the legal residence of such parent(s) or guardian shall be prima facie evidence of the individual's legal residence, which may be reinforced or rebutted relative to the age and general circumstances of the individual by the other evidence of legal residence required of or presented by the individual; provided, that the legal residence of an individual whose parents are domiciled outside this State shall not be prima facie evidence of the individual's legal residence if the individual has lived in this State the five consecutive years prior to enrolling or reregistering at the institution of higher education at which resident status for tuition purposes is sought.

(f) In making domiciliary determinations related to the classification of persons as residents or nonresidents for tuition purposes, the domicile of a married person, irrespective of sex, shall be determined, as in the case of an unmarried person, by reference to all relevant evidence of domiciliary intent. For purposes of this section:

(1) No person shall be precluded solely by reason of marriage to a person domiciled outside North Carolina from establishing or maintaining legal residence in North Carolina and subsequently qualifying or continuing to qualify as a resident for tuition purposes;

(2) No persons shall be deemed solely by reason of marriage to a person domiciled in North Carolina to have established or maintained a legal residence in North Carolina and subsequently to have qualified or continued to qualify as a resident for tuition purposes;

(3) In determining the domicile of a married person, irrespective of sex, the fact of marriage and the place of domicile of his or her spouse shall be deemed relevant evidence to be considered in ascertaining domiciliary intent.

(g) Any nonresident person, irrespective of sex, who marries a legal resident of this State or marries one who later becomes a legal resident, may, upon becoming a legal resident of this State, accede to the benefit of the spouse's immediately precedent duration as a legal resident for purposes of satisfying the 12-month durational requirement of this section.

(h) No person shall lose his or her resident status for tuition purposes solely by reason of serving in the armed forces outside this State.

(h1) Any member of a North Carolina National Guard unit who is a nonresident shall be eligible to be charged the in-State tuition rate and shall pay the full amount of the in-State tuition rate and applicable mandatory fees. This subsection applies to members in a reserve or active duty status.

(i) A person who, having acquired bona fide legal residence in North Carolina, has been classified as a resident for tuition purposes but who, while enrolled in a State institution of higher education, loses North Carolina legal residence, shall continue to enjoy the in-State tuition rate for a statutory grace period. This grace period shall be measured from the date on which the culminating circumstances arose that caused loss of legal residence and shall continue for 12 months; provided, that a resident's marriage to a person domiciled outside of North Carolina shall not be deemed a culminating circumstance even when said resident's spouse continues to be domiciled outside of North Carolina; and provided, further, that if the 12-month period ends during a semester or academic term in which such a former resident is enrolled at a State institution of higher education, such grace period shall extend, in addition, to the end of that semester or academic term.

(j) Notwithstanding the prima facie evidence of legal residence of an individual derived pursuant to subsection (e), notwithstanding the presumptions of the legal residence of a minor established by common law, and notwithstanding the authority of a judicially determined custody award of a minor, for purposes of this section, the legal residence of a minor whose parents are divorced, separated, or otherwise living apart shall be deemed to be North Carolina for the time period relative to which either parent is entitled to claim and does in fact claim the minor as a dependent for North Carolina individual income tax purposes. The provisions of this subsection shall pertain only to a minor who is claimed as a dependent by a North Carolina legal resident.

Any person who immediately prior to his or her eighteenth birthday would have been deemed under this subsection a North Carolina legal resident but who achieves majority before enrolling at an institution of higher education shall not lose the benefit of this subsection if that person:

(1) Upon achieving majority, acts, to the extent that the person's degree of actual emancipation permits, in a manner consistent with bona fide legal residence in North Carolina; and

(2) Begins enrollment at an institution of higher education not later than the fall academic term next following completion of education prerequisite to admission at such institution.

(k) Notwithstanding other provisions of this section, a minor who satisfies the following conditions immediately prior to commencement of an enrolled term at an institution of higher education, shall be accorded resident tuition status for that term:

(1) The minor has lived for five or more consecutive years continuing to such term in North Carolina in the home of an adult relative other than a parent, domiciled in this State; and

(2) The adult relative has functioned during those years as a de facto guardian of the minor and exercised day-to-day care, supervision, and control of the minor.

A person who immediately prior to his or her eighteenth birthday qualified for or was accorded resident status for tuition purposes pursuant to this subsection shall be deemed upon achieving majority to be a legal resident of North Carolina of at least 12 months' duration; provided, that the legal residence of such an adult person shall be deemed to continue in North Carolina only so long as the person does not abandon legal residence in this State.

(l) Any person who ceases to be enrolled at or graduates from an institution of higher education while classified as a resident for tuition purposes and subsequently abandons North Carolina domicile shall be permitted to reenroll at an institution of higher education as a resident for tuition purposes without necessity of meeting the 12-month

durational requirement of this section if the person reestablishes North Carolina domicile within 12 months of abandonment of North Carolina domicile and continuously maintains the reestablished North Carolina domicile at least through the beginning of the academic term(s) for which in-State tuition status is sought.

The benefit of this subsection shall be accorded not more than once to any one person.

§ 116-143.2

Expired.

§ 116-143.3. Tuition of active duty personnel in the armed services

(a) Definitions. -- The following definitions apply in this section:

(1) The term "abode" shall mean the place where a person actually lives, whether temporarily or permanently; the term "abide" shall mean to live in a given place.

(2) The term "armed services" shall mean the United States Air Force, Army, Coast Guard, Marine Corps, and Navy; the North Carolina National Guard; and any Reserve Component of the foregoing.

(3) The term "tuition assistance" shall be used as defined in the United States Department of Defense Directive 1322.8, implementing 10 U.S.C. § 2007.

(b) Any active duty member of the armed services qualifying for admission to an institution of higher education as defined in G.S. 116-143.1(a)(3) but not qualifying as a resident for tuition purposes under G.S. 116-143.1 shall be charged the in-State tuition rate and applicable mandatory fees for enrollments while the member of the armed services is abiding in this State incident to active military duty in this State. In the event the active duty member of the armed services is reassigned outside of North Carolina, the member shall continue to be eligible for the in-State tuition rate and applicable mandatory fees so long as the member is continuously enrolled in the degree or other program in which the member was enrolled at the time the member is reassigned.

(c) Any dependent relative of a member of the armed services who is abiding in this State incident to active military duty, as defined by the Board of Governors of The University of North Carolina and by the State Board of Community Colleges while sharing the abode of that member shall be eligible to be charged the in-State tuition rate, if the dependent relative qualifies for admission to an institution of higher education as defined in G.S. 116-143.1(a)(3). The dependent relatives shall comply with the requirements of the Selective Service System, if applicable, in order to be accorded this benefit. In the event the member of the armed services is reassigned outside of North Carolina, the dependent relative shall continue to be eligible for the in-State tuition rate and applicable mandatory fees so long as the dependent relative is continuously enrolled in the degree or other program in which the dependent relative was enrolled at the time the member is reassigned.

(d) The burden of proving entitlement to the benefit of this section shall lie with the applicant therefore.

(e) A person charged less than the out-of-state tuition rate solely by reason of this section shall not, during the period of receiving that benefit, qualify for or be the basis of conferring the benefit of G.S. **116-143.1**(g), (h), (i), (j), (k), or (1).

§ 116-143.4. Admissions status of persons charged in-State tuition

A person eligible for the in-State tuition rate pursuant to this Article shall be considered an in-State applicant for the purpose of admission; provided that, a person eligible for in-State tuition pursuant to G.S. 116-143.3(c) shall be considered an in-State applicant for the purpose of admission only if at the time of seeking admission he is enrolled in a high school located in North Carolina or enrolled in a general education development (GED) program in an institution located in this State.

§ 116-143.5. Tuition of certain teachers

Notwithstanding G.S. **116-143.1**, any teacher or other personnel paid on the teacher salary schedule who (i) has established a legal residence (domicile) in North Carolina and (ii) is employed full-time by a North Carolina public school, shall be eligible to be charged the in-State tuition rate for courses relevant to teacher certification or to professional development as a teacher.

§ 116-144. Higher tuition to be charged nonresidents

The Board of Governors shall fix the tuition and required fees charged nonresidents of North Carolina who attend the institutions enumerated in G.S. 116-4 at rates higher than the rates charged residents of North Carolina and comparable to the rates charged nonresident students by comparable public institutions nationwide, except that a person who serves as a graduate teaching assistant or graduate research assistant or in a similar instructional or research assignment and is at the same time enrolled as a graduate student in the same institution may, in the discretion of the Board of Governors, be charged a lower rate fixed by the Board, provided the rate is not lower than the North Carolina resident rate.