

FLORIDA BOARD OF GOVERNORS

January 27, 2005

SUBJECT: Board of Governors' Adoption of State Board of Education Rule 6A-10.044
(Residency for Tuition Purposes).

PROPOSED BOARD ACTION

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Pass a resolution, as discussed and recommended by the Florida Board of Governors Student Affairs Committee, adopting State Board of Education rule 6A-10.044, F.A.C. The purpose of this rule is to establish consistent policies for the classification of students as residents for tuition purposes. The determinations of classification or reclassification shall be consistent to assure that students are classified the same regardless of the institution at which the classification is determined.

AUTHORITY FOR BOARD OF GOVERNORS ACTION

Article IX, Section 7 (d), Constitution of the State of Florida.

BACKGROUND INFORMATION

The current State Board of Education residency rule governs residency decisions made by institutions receiving financial aid under section 1009.40, F.S., and public postsecondary institutions governed by section 1009.21, F.S. The rule provides consistency among institutions in making residency determinations by defining which visa categories make individuals eligible to establish residency for tuition purposes, as well as by specifying certain dates and documents that should be used for making a determination of residency. The Residency Committee, which includes representatives from public universities, community colleges, and independent institutions (including legal counsels from two institutions), recommended recent changes to this rule. The Articulation Coordinating Committee reviewed and approved these recommended changes before submitting them to the State Board of Education. The State Board of Education approved the rule changes on February 15, 2005, and adoption is now sought from the Board of Governors.

The rule amendments approved by the State Board of Education included:

- Stipulating that an institution to which a student is transferring shall recognize the residency classification of the sending institution if the classification has been made within the last 12 months;
- identifying two new visa categories in which individuals are eligible to establish residency for tuition purposes;
- changing U.S. Immigration and Naturalization Service to U.S. Bureau of Citizenship and Immigration Services;

- establishing that the Clerk of Circuit Courts date notarizing receipt of the declaration of domicile shall be the date used to establish residency;
- requiring that all references to federal and state governments shall be interpreted as U.S. federal and Florida state government;
- establishing standards for determining the classification of dependent and independent "All Florida" residents;
- stipulating that an applicant not classified as an "All Florida" resident shall be further assessed by the institution;
- listing the type of documentation that may be used to assess residency;
- stipulating that the dependent or independent status will be based on the most recent tax return of the student or the student's parents;
- clarifying that the definition of a legally married person shall be consistent with Chapter 741 Florida Laws;
- stipulating that a non-resident who is enrolled full time and is seeking re-classification provide documentation which substantiates that he or she or, if a dependent, his or her mother, father, or guardian is establishing Florida as a primary residence and not as a mere temporary residence incident to the enrollment in higher education;
- providing the authority for local institutions to impose deadlines for the submission of documents;
- stipulating that, notwithstanding the foregoing, institutions shall classify persons as residents for tuition purposes in accordance with Section 1009.21, F.S.; and,
- providing definitions.

Supporting Documentation Available:

Draft FBOG Resolution Regarding Adoption of State Board of Education Rule 6A-10.044 (With Student Affairs Committee Agenda)

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Facilitators / Presenters:

Chancellor Austin / Dottie Minear