

**STATE UNIVERSITY SYSTEM OF FLORIDA  
BOARD OF GOVERNORS  
March 24, 2011**

**SUBJECT:** Amended Board of Governors Regulation 7.005 and New Board of Governors Rule 72-1.001 Relating to Residency for Tuition Purposes

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**PROPOSED BOARD ACTION**

Approve amended Board of Governors Regulation 7.005 and new Board of Governors Rule 72-1.001 relating to Residency for Tuition Purposes

**AUTHORITY FOR BOARD OF GOVERNORS ACTION**

Article IX, Section 7, Florida Constitution

**BACKGROUND INFORMATION**

An amendment is being proposed to Board of Governors Regulation 7.005 to conform to legislative changes made to section 1009.21, Florida Statutes; to streamline the regulation for purposes of clarity; and to differentiate between the process for initial residency determinations and the process for handling requests for residency reclassification.

Paragraph (2) implements the statutory requirements for initial residency determinations. Paragraph (2)(a) clarifies that a dependent student who attended a Florida high school for a minimum of two academic years immediately preceding initial enrollment in the SUS may use a high school transcript or GED certification earned within the last twelve months as one piece of documentation to demonstrate Florida residency; together with at least one additional piece of documentation. Paragraph (2)(b) explains the use of a declaration of domicile for initial residency determinations.

Paragraph (3) specifies that a student who was initially classified as a nonresident for tuition purposes may become eligible for reclassification by presenting at least three documents that convincingly demonstrate the establishment of permanent residency in Florida other than for the sole purpose of pursuing a postsecondary education. The documents must demonstrate residence in Florida for at least twelve consecutive months prior to the request for reclassification.

Paragraph (4) provides that the applicant has the burden of providing clear and convincing documentation that justifies the university's classification of a student as a resident for tuition purposes. The regulation includes a definition for "clear and convincing" documentation.

Paragraph (5) provides that non-U.S. citizens may be eligible to establish residency for tuition purposes if evidence is presented verifying that the student is legally present in the U.S., has met the requirements of the residency statute, and falls into one of two categories. Category one covers foreign nationals in a nonimmigrant visa classification that grants the person the legal ability to establish and maintain a bona fide domicile in the United States according to the U.S. Citizenship and Immigration Services. Category two covers permanent resident aliens, parolees, asylees, Cuban-Haitian entrants or other legal aliens granted an indefinite stay in the United States.

Paragraph (6) requires that each state university's residency appeal process must be in writing and displayed prominently on the university Web site.

A new residency rule with identical language to the regulation is also being proposed. The rule will be in Chapter 72 of the Florida Administrative Code. As required by the Administrative Procedures Act, a notice of proposed rule development was published in the Florida Administrative Weekly on December 3, 2010; a public workshop on the notice of proposed rule development was held on December 17, 2010; a notice of proposed rulemaking was published in the Florida Administrative Weekly on February 4, 2011; a public hearing on rulemaking was held on February 28, 2011; and the Joint Administrative Procedures Committee approved the text of the rule.

Pursuant to the Board's Regulation Development Procedure, Regulation 7.005 was posted on the Board's Web site for public comment after consideration by the Board at its meeting on January 20, 2011. The comment period has since expired, and Regulation 7.005 is submitted to the Board for approval.

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**Supporting Documentation Included:** 1. Regulation 7.005 – Residency for Tuition Purposes  
2. Notice of Proposed Rulemaking – Rule 72-1.001 Residency for Tuition Purposes

**Presenter:** Vikki Shirley