

Substantial rewording of Rule 6A-10.044 follows. See Florida Administrative Code for present text.

6A-10.044 Determination of Residency Status for Tuition Purposes.

(1) The purpose of this rule is to establish consistent policies to determine the residency status for tuition purposes of students who are citizens of the United States or lawfully present in the United States. The determination of residency is to be made in accordance with criteria set forth in Federal law and Section (s.) 1009.21, Florida Statutes (F.S.), after the student has been admitted to a Florida College System institution.

(2) Definitions:

(a) “Dependent student” has the same meaning as “dependent child” as defined in s. 1009.21, F.S.

(b) “Independent student” for the purposes of residency determination shall be defined as a student meeting one of the following criteria:

1. The student is 24 years old or older by the first day of classes of the term for which residency status is sought at the institution.

2. The student is married.

3. The student has dependents that live with him or her, and the student provides more than half of the income to support those dependents.

4. The student is a graduate student or professional student.

5. The student is actively serving in the United States Armed Forces, the National Guard, or is a veteran.

6. The student is not eligible to be claimed as a dependent by his or her parent or legal guardian for federal income tax purposes according to the rules and regulations established by the United States Internal Revenue Service.

7. The student can demonstrate that he or she pays more than half of his or her tuition and required fees pursuant to s. 1009.23, F.S.

8. Both parents of the student are deceased.

(c) “Resident for tuition purposes” means an admitted or currently enrolled student who meets the residency requirements in s. 1009.21, F.S., and the provisions of this rule, and is therefore eligible to pay the resident tuition and fee rate as described in s. 1009.23, F.S.

(d) “Non-resident for tuition purposes” means an admitted or currently enrolled student who does not meet the residency requirements in s. 1009.21, F.S., and the provisions of this rule, and must therefore be charged the non-

resident tuition and fee rate as described in s. 1009.23, F.S.

(3) Initial Determination of Residency. Each Florida College System institution shall develop policies and procedures for determining each admitted student's Florida residency status for tuition purposes. Policies and procedures shall be consistent with the criteria set forth in s. 1009.21, F.S. Each institution's residency appeal process established pursuant to s. 1009.21(12), F.S., shall be in writing in the institution's catalog and prominently displayed on the institution's website. Such policies and procedures shall, at a minimum, adhere to the following requirements:

(a) Each admitted student seeking to declare residency for tuition purposes shall submit a residency declaration, as prescribed by the institution, and shall submit the documentation required by the institution to establish Florida residency for tuition purposes.

(b) Each Florida College System institution shall establish submission deadlines for all documentation used to determine residency for tuition purposes.

(c) Each Florida College System institution shall provide written notice to admitted students that the burden of providing clear and convincing documentation to justify the institution's classification of a student's residency status for tuition purposes rests with the student or, if the student is a dependent, with the student's parent or legal guardian. For documentation to be "clear and convincing," it must be credible, precise, and compelling enough to persuade the institution that the student or, if that student is a dependent, the student's legal guardian has established legal residency in Florida.

(d) Each Florida College System institution shall provide written notice requesting additional documentation to affirmatively determine residency for tuition purposes, including documentation required to review an admitted student's citizenship status for the purposes of determining residency in accordance with s. 1009.21 (2)(d), F.S.

(e) Each Florida College System institution shall ensure that the student, parent or legal guardian has resided in Florida for at least twelve (12) consecutive months immediately preceding the term in which the student is seeking residency classification, and that their purpose for residence in the State shall not be solely for the purpose of pursuing an education, except as otherwise provided in s. 1009.21, F.S.

(f) Each Florida College System institution shall provide written notice disclosing the penalties for intentional fraud or misrepresentation of the student's residency status, or if that student is a dependent, the student's parent or legal guardian's residency status.

(4) Residency Determination Documents. If a declaration of domicile, pursuant to s. 222.17, F.S., is being used as one of the documents to establish residency for tuition purposes, the date that an applicant shall be deemed as establishing residency for tuition purposes shall be twelve (12) months after the date that the Clerk of Circuit Court notes the declaration was sworn and subscribed to them. Nothing in this subsection shall prevent the use of additional documentation as evidence that legal residency was established by other means pursuant to s. 1009.21(3)(c), F.S., as of a date earlier than that established by the declaration of domicile.

(5) Residency Reclassification Determination. A currently enrolled student who is classified as a non-resident for tuition purposes must be allowed to apply for reclassification as a resident for tuition purposes if the student, or their parent or legal guardian in the case of a dependent student, is able to meet the residency requirements set forth in s. 1009.21, F.S., to be considered a resident of Florida for tuition purposes. Each institution's residency reclassification process established pursuant to s. 1009.21(6), F.S., shall be in writing in the institution's catalog and prominently displayed on the institution's website.

(a) Reclassified students are not entitled to reimbursement of any non-resident tuition or fees properly assessed prior to reclassification.

(b) Reclassified students shall be assessed the resident tuition and fee rate at the start of the next academic term after the reclassification occurs based on the deadlines established by the institution.

(c) Nothing in this rule precludes an institution from requesting additional documentation as defined in s. 1009.21(3), F.S., to support a student's request for reclassification of residency status.

Rulemaking Authority 1009.21(13) FS. Law Implemented 1009.21 FS. History—New 10-6-92, Amended 10-17-00, 3-22-05, 6-22-10, 10-22-13, 12-2-15.