6A-10.044 Residency for Tuition Purposes.

The purpose of this rule is to establish consistent policies for the classification of students as residents for tuition purposes in accordance with criteria set forth in Section 1009.21, F.S.

(1) For Initial Determination of Residency: Each student shall submit Form FRD-1, Florida Residency Declaration for Tuition Purposes (http://www.flrules.org/Gateway/reference.asp?No=Ref-05985) to the institution making a residency determination for tuition purposes, electronically or in any other format required or authorized by the institution, and the documentation required by the institution to establish Florida residency for tuition purposes. Verification of whether the student is a dependent child as defined in Section 1009.21(1)(a), F.S., shall be satisfied if the parent declares on the Florida Residency Declaration that the student is eligible to be claimed as a dependent by the parent under the federal income tax code. Form FRD-1 is incorporated by reference and made a part of this rule to become effective December 2015. A copy of Form FRD-1 may be obtained by contacting the Division of Florida Colleges, 325 West Gaines Street, Tallahassee, Florida 32399.

(a) A dependent student who attended a Florida high school for a minimum of two (2) academic years immediately preceding his or her initial enrollment in an institution of higher education and graduated from a Florida high school or earned a State of Florida High School Diploma as authorized under Rule 6A-6.0201, F.A.C., within the last twelve (12) months may use their high school transcript or the official transcript for the State of Florida High School Diploma as evidence of Florida residency. At least one (1) additional document identified in Section 1009.21(3)(c)1. or 1009.21(3)(c)2., F.S., must be presented evidencing parental legal residence.

(b) If a declaration of domicile, pursuant to Section 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 hence from 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 Section 1009.21(1)(c), F.S., as of a date earlier than that established by the Declaration of Domicile.

(2) For Residency Reclassification Determination. A student who is classified as a nonresident for tuition purposes may become eligible for reclassification as a resident for tuition purposes by presenting a minimum of three (3) documents identified in Section 1009.21(3)(c)1. or 1009.21(3)(c)2., F.S., that convincingly demonstrate the establishment of permanent legal residence in Florida other than for the sole purpose of pursuing a postsecondary education. Documentation must demonstrate that the student or, if the student is a dependent, his or her parent, has maintained legal residence in Florida for at least twelve (12) consecutive months immediately prior to the first day of classes for the term for which residency reclassification is sought, except as otherwise provided in Section 1009.21, F.S.

(3) The burden of providing clear and convincing documentation that justifies the institution’s classification of a student as a resident for tuition purposes rests with the student or, if the student is a dependent, his or her parent. For documentation to be “clear and convincing,” it must be credible, trustworthy, and sufficient to persuade the institution that the student or, if that student is a dependent, his or her parent has established legal residency in Florida that is not solely for the purpose of pursuing an education and has relinquished residency in any other state for at least twelve (12) consecutive months prior to classification. Each institution of higher education may establish submission deadlines for all documentation that will be used to determine residency for tuition purposes.

(4) A non-United States citizen may be eligible to establish residency for tuition purposes if evidence is presented verifying that he or she has legal status in the United States, has met the residency requirements of Section 1009.21, F.S., and the person is one of the following:

(a) A foreign national in a nonimmigrant visa classification that grants the person the legal ability to establish and maintain a bona fide domicile in the United States.

1. The following visa categories grant the person the legal ability to establish and maintain a bona fide domicile in the United States: A, E, G, H-1B, H-1C, I, K, L, N, NATO 1-7, O-1, R, S, T, U, and V.

2. The following visa categories do not grant the person the legal ability to establish and maintain a bona fide domicile in the United States: B, C, D, F, H2, H3, M, P, Q, and TN. J visa holders are not eligible to establish residency for tuition purposes except as provided in Section 1009.21(10), F.S.

(b) A permanent resident alien, parolee, asylee, Cuban-Haitian entrant, or other qualified alien.

(c) Pursuant to Section 1009.21(2)(d), F.S., a dependent student who is a U.S citizen may not be denied classification as a resident for tuition purposes based solely upon the immigration status of the parent.
(5) Each institution’s official residency appeal process established pursuant to Section 1009.21(12), F.S., shall be in writing and prominently displayed on the institution’s website.

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.