APPLICATION FOR REVIEW OF RESIDENCY STATUS

RESIDENCY REGULATION: PUBLIC COLLEGES AND UNIVERSITIES IN THE COMMONWEALTH OF KENTUCKY

The regulation for residency is the **"Determination of Residency Status for Admission and Tuition Assessment Purposes"** and is to be used by each public college and university pursuant to KRS 164.020 and KRS 164.030 and is codified as 13 KAR 2:045. These institutions are Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Northern Kentucky University, University of Kentucky, University of Louisville, Western Kentucky University, and the Kentucky Community and Technical College System Colleges.

INITIAL DETERMINATION OF RESIDENCY STATUS

The determination of residency status is made by the institution during the admission process, and is based on information available in the admission records. A review of the determination of residency status may be requested by the student, the institution, or the Council on Postsecondary Education.

In making decisions, a determination is made as to whether a person is dependent on, or independent of, his or her parent. If a student is determined to be dependent, the student takes the resident classification of the parent. If the student is determined to be independent, the student is responsible for establishing residency in his or her own right.

REVIEW OF RESIDENCY STATUS

The application for review of determination of residency status is submitted on the affidavit and presented, along with all necessary documentation, to the appropriate institutional staff. The student is responsible for insuring that all necessary documentation is submitted with the affidavit. Incomplete applications may be returned to the student. This material will be reviewed in compliance with Section 3 of the "Determination of Residency Status; General Rules" and a written decision will be issued.

Application must be filed in a timely manner; as such, application may not be treated retroactively and must be filed and fully documented within 30 calendar days of the first day of class. Applications filed more than 30 calendar days after the first day of class will not be considered for that term. A student may choose to file an application for a later academic term.

Return to:

Ashland Community and Technical College
Office of Admission
Room 214 1400 College Dr.
Ashland, KY 41101
(606) 326-2413

Revised 11/11/2014

WHY COMPLETE THIS FORM?

1. Normally admissions information is limited to academic credentials and does not include complete evidence of residency and domicile.
2. The tuition differential for residents and nonresidents is significant and can impact a student's financial resources.
3. University officials wish to properly classify students for admission and tuition purposes, and procedures are in place to do this when sufficient information and documentation are available.
4. Students are responsible for providing a preponderance of evidence of residence and domicile.
5. Every relevant factor is considered in determining a residency status.
6. All facts of residency and domicile must be documented and must be verifiable.

COMPLETING THE FORM

The residency affidavit is provided by the Council on Postsecondary Education and is to be used consistently in all public institutions of higher education in the State of Kentucky. The form provides for information pertaining to dependent persons and independent persons, to students, and to parents. Each person completing this form must exercise good judgment in choosing which portions to complete and which ones to omit. It is highly recommended that if in doubt, the section should be completed. All persons submitting an application must affix a notarized signature to authorize the release of information, and to attest that all information provided is true and correct. All forms must be notarized. Applications that are incomplete or without supporting documentation, will be returned to the applicant, thereby jeopardizing the applicant's adherence to schedules and deadlines. Although many factors are considered in the determination of residency status, special attention should be given to the documents listed below.

DOCUMENTATION AND VERIFIABLE CIRCUMSTANCES

Sections 3(2) and (4) of the "Determination of Residency Status; General Rules" require that residency shall be based upon verifiable circumstances substantiated by submission of original or true copies of relevant evidence. Following is a list of documents to accompany a request for reclassification of residency for tuition assessment purposes, as necessary to support your application. Other documents may be required by institutions or may be provided at institutional or student request. All tax forms must include filer's name and signature.

- Verification of present address.
- Copy of Kentucky (Form 740) state tax forms of your parent(s) or legal guardian for the two calendar years immediately preceding the date of application for reclassification of residency status. All tax forms must include filer's name, signature and date.
- Copy of most recent financial aid award notice and/or student aid report.
- Copy of statement from parent regarding financial support.
- Copy of both sides of permanent visa (e.g. resident alien card, etc.).
- Letter from your employer on official company letterhead verifying job transfer or acceptance of full-time employment giving date of employment, average number of hours worked per week, and whether the job is permanent or temporary.
- Verification that you have not been enrolled as a student or that you were enrolled less than half-time while living in Kentucky for the 12 months preceding the first day of classes of the term for which you are applying.
- Copy of your Kentucky state income tax forms (Form 740 and all schedules) for the two calendar years immediately preceding the date of application for reclassification of residency status. All tax forms must include filer's name, signature, and date.
- Verification of payment of occupational taxes in Kentucky.
- Verification of payment of real property taxes in Kentucky.
- Copy of property deed to Kentucky residence, or copy of lease agreement for noncollegiate housing.
- Copy of your current automobile registration.
- Copy of current driver's license.
- Copy of voter registration.
- Copy of current military orders, if applicable.
- Copy of military document changing home of record to Kentucky, if applicable.
- Copy of military discharge (DD 2-14), if applicable.
- Letter on official company letterhead verifying job transfer and dates of employment for parent(s) or legal guardian(s).
- Court order awarding guardianship if not dependent upon parents.
- Copy of marriage license, if spouse information is relevant to your application.
- Other documentation relevant to your situation and which might be supportive of your request for determination of residency status.

Please note Section 3 "Determination of Residency Status: General Rules" of 13 KAR 2:045, "Determination of Residency Status for Admission and Tuition Assessment Purposes."

ADMINISTRATIVE REGULATION

13 KAR 2:045.

Determination of residency status for admission and tuition assessment purposes. RELATES

TO: KRS Chapter 13B, 164.020, 164.030, 164A.330(6) STATUTORY AUTHORITY: KRS

164.020(8)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.020(8) requires the Council on Postsecondary Education to determine tuition and approve the minimum qualifications for admission to a state-supported postsecondary education institution and authorizes the Council to set different tuition amounts for residents of Kentucky and for nonresidents. This administrative regulation establishes the procedure and guidelines for determining the residency status of a student who is seeking admission to, or who is enrolled at, a state-supported postsecondary education institution.

Section 1. Definitions.
(1) "Academic term" means a division of the school year during which a course of studies is offered, and includes a semester, quarter, or single consolidated summer term as defined by the institution.
(2) "Continuous enrollment" means enrollment in a state-supported postsecondary education institution at the same degree level for consecutive terms, excluding summer term, since the beginning of the period for which continuous enrollment is claimed unless a sequence of continuous enrollment is broken due to extenuating circumstances beyond the student's control, including serious personal illness or injury, or illness or death of a parent.
(3) "Degree level" means enrollment in a course or program which could result in the award of a: (a) Certificate, diploma or other program award at an institution; (b) Baccalaureate degree or lower including enrollment in a course by a nondegree-seeking postbaccalaureate student; (c) Graduate degree or graduate certification other than a first-professional degree in law, medicine, dentistry or "Pharm. D"; or (d) Professional degree in law, medicine, dentistry, or "Pharm. D".
(4) "Demonstration of Kentucky domicile and residency" means the presentation of documented information and evidence sufficient to prove by a preponderance of the evidence that a person is domiciled in Kentucky and is a resident of Kentucky.
(5) "Dependent person" means a person who cannot demonstrate financial independence from parents or persons other than a spouse and who does not meet the criteria established in Section 5 of this administrative regulation.
(6) "Determination of residency status" means the decision of a postsecondary education institution that may include a formal hearing that results in the classification of a person as a Kentucky resident or as a nonresident for admission and tuition assessment purposes.
(7) "Domicile" means a person's true, fixed, and permanent home and is the place where the person intends to remain, and to which the person expects to return if absent without intending to establish a new domicile elsewhere.
(8) "Full-time employment" means continuous employment for at least forty-eight (48) weeks at an average of at least thirty (30) hours per week.
(9) "Independent person" means a person who demonstrates financial independence from parents or persons other than a spouse and who can meet the criteria established in Section 5 of this administrative regulation.
(10) "Institution" means an entity defined in KRS 164.001(11) if the type of institution is not expressly stated and includes the Kentucky Virtual University, the Council on Postsecondary Education, and the Kentucky Higher Education Assistance Authority.
(11) "Kentucky resident" means a determination by an institution that a person is domiciled in and is a resident of Kentucky as determined by this administrative regulation.
(12) "Nonresident" means a person who is domiciled outside of Kentucky or who currently maintains legal residence outside Kentucky or who is not a Kentucky resident within the meaning of this administrative regulation.
(13) "Parent" means one (1) of the following: (a) A person's father or mother; or (b) A court-appointed legal guardian if: 1. The guardianship is recognized by an appropriate court within the United States; 2. There was a relinquishment of the rights of the parents; and 3. The guardianship was not established primarily to confer Kentucky residency on the person.
(14) "Preponderance of the evidence" means the greater weight of evidence, or evidence which is more credible and convincing to the mind.
(15) "Residence" means the place of abode of a person and the place where the person is physically present most of the time for a noneducational purpose in accordance with Section 3 of this administrative regulation.
(16) "Student financial aid" means all forms of payments to a student if one (1) condition of receiving the payment is the enrollment of the student at an institution.
(17) "Sustenance" means living expenses including room, board, maintenance, transportation, and also may include educational expenses including tuition, fees, books, and supplies.

Section 2. Scope.
(1) State-supported postsecondary education institutions were established and are maintained by the Commonwealth of Kentucky primarily for the benefit of qualified residents of Kentucky. The substantial commitment of public resources to postsecondary education is predicated on the proposition that the state benefits significantly from the existence of an educated citizenry. As a matter of policy, access to postsecondary education shall be provided so far as feasible at reasonable cost to an individual who is domiciled in Kentucky and who is a resident of Kentucky.
(2) The Council on Postsecondary Education may require a student who is neither domiciled in nor a resident of Kentucky to meet higher admission standards and to pay a higher level of tuition than resident students.
(3) This administrative regulation applies to all student residency determinations regardless of circumstances, including residency determinations made by the state-supported institutions for prospective and currently-enrolled students; the Southern Regional Education Board contract spaces; reciprocity agreements, where appropriate; the Kentucky Virtual University;
academic common market programs; the Kentucky Educational Excellence Scholarship Program; and other state student financial aid programs, as appropriate.

Section 3. Determination of Residency Status; General Rules.
(1) A determination of residency shall include: (a) An initial determination of residency status by an institution during the admission process or upon enrollment in an institution for a specific academic term or for admission into a specific academic program; (b) A reconsideration of a determination of residency status by an institution based upon a changed circumstance; and (c) A formal hearing conducted by an institution upon request of a student after other administrative procedures have been completed.
(2) An initial determination of residency status shall be based upon: (a) The facts in existence when the credentials established by an institution for admission for a specific academic term have been received and during the period of review by the institution; (b) Information derived from admissions materials; (c) Other materials required by an institution and which are consistent with this administrative regulation; or (d) Other information available to the institution from any source.
(3) An individual seeking a determination of Kentucky residency status shall demonstrate that status by a preponderance of the evidence.
(4) A determination of residency status shall be based upon verifiable circumstances or actions.
(5) Evidence and information cited as the basis for Kentucky domicile and residency shall accompany the application for a determination of residency status.
(6) A student classified as a nonresident shall retain that status until the student is officially reclassified by an institution.
(7) A student may apply for a review of a determination of residency status once for each academic term.
(8) If an institution has information that a student's residency status may be incorrect, the institution shall review and determine the student's correct residency status.
(9) If the Council on Postsecondary Education has information that an institution's determination of residency status for a student may be incorrect, it may require the institution to review the circumstances and report the results of that review.
(10) An institution shall impose a penalty or sanction against a student who gives incorrect or misleading information to an institutional official, including payment of nonresident tuition for each academic term for which resident tuition was assessed based on an improper determination of residency status. The penalty may also include: (a) Student discipline by the institution through a policy written and disseminated to students; or (b) Criminal prosecution.

Section 4. Presumptions Regarding Residency Status.
(1) In making a determination of residency status, it shall be presumed that a person is a nonresident if: (a) A person is, or seeks to be, an undergraduate student and admissions records show the student to be a graduate of an out-of-state high school within five (5) years prior to a
request for a determination of residency status; (b) A person's admissions records indicate the student's residence to be outside of Kentucky at the time of application for admission; (c) A person moves to Kentucky primarily for the purpose of enrollment in an institution; (d) A person moves to Kentucky and within twelve (12) months enrolls at an institution more than half time; or (e) A person has a continuous absence of one (1) year from Kentucky.
(2) A presumption arising from subsection (1) of this section shall be overcome by presentation of evidence that is sufficient to demonstrate that a person is domiciled in and is a resident of Kentucky.

Section 5. Determination of Whether a Student is Dependent or Independent.
(1) In a determination of residency status, an institution shall first determine whether a student is dependent or independent. This provision is predicated on the assumption that a dependent person lacks the financial ability to live independently of the person upon whom the student is dependent and therefore lacks the ability to form the requisite intent to establish domicile.
(2) In determining the dependent or independent status of a person, the following information shall be considered as well as other relevant information available at the time the determination is made: (a) 1. Whether the person has been claimed as a dependent on the federal or state tax returns of a parent or other person for the year preceding the date of application for a determination of residency status; or 2. Whether the person is no longer claimed by a parent or other person as a dependent or as an exemption for federal and state tax purposes; and (b) Whether the person has financial earnings and resources independent of a person other than an independent spouse necessary to provide for the person's own sustenance.
(3) An individual who enrolls at an institution immediately following graduation from high school and remains enrolled shall be presumed to be a dependent person unless the contrary is evident from the information submitted.
(4) Domicile may be inferred from the student's permanent address, parent's mailing address, or location of high school of graduation.

(5) Marriage to an independent person domiciled in and who is a resident of Kentucky shall be a factor considered by an institution in determining whether a student is dependent or independent.
(6) Financial assistance from or a loan made by a parent or family member other than an independent spouse, if used for sustenance of the student: (a) Shall not be considered in establishing a student as independent; and (b) Shall be a factor in establishing that a student is dependent.

Section 6. Effect of a Determination of Dependent Status on a Determination of Residency Status.
(1) The effect of a determination that a person is dependent shall be: (a) The domicile and residency of a dependent person shall be the same as either parent. The domicile and residency of the parent shall be determined in the same manner as the domicile and residency of an independent person. (b) The domicile and residency of a dependent person whose parents are divorced, separated, or otherwise living apart shall be Kentucky if either parent is domiciled in and is a resident of Kentucky regardless of which parent has legal custody or is entitled to claim that person as a dependent pursuant to federal or Kentucky income tax provisions.
(2) (a) If the parent or parents of a dependent person are Kentucky residents and are domiciled in Kentucky but subsequently move from the state, the dependent person shall be considered a resident of Kentucky while in continuous enrollment at the degree level in which currently enrolled.
(b) If continuous enrollment is broken or the current degree level is completed, the dependent person's residency status shall be reassessed when the circumstances detailed in subparagraph 1 of this paragraph are present.

Section 7. Member of Armed Forces of the United States, Spouse and Dependents; Effect on a Determination of Residency Status.
(1) A member, spouse, or dependent of a member whose domicile and residency was Kentucky at the time of induction into the Armed Forces of the United States, and who maintains Kentucky as home of record and permanent address, shall be entitled to Kentucky residency status:(a) During the time of active service; or (b) If the member, spouse, or dependent returns to this state within six (6) months of the date of the member's discharge from active duty.
(2) (a) A member, spouse or dependent of a member of the Armed Forces of the United States stationed in Kentucky on active military orders shall be considered a Kentucky resident while the member is on active duty in this state pursuant to those orders if the member is not: 1. Stationed in Kentucky for the purpose of enrollment at an institution; or 2. On temporary assignment of less than one (1) year. (b) A member, spouse or dependent of a member, shall not lose Kentucky residency status if the member is thereafter transferred on military orders while the member, spouse or dependent requesting the status is in continuous enrollment at the degree level in which currently enrolled.
(3) Membership in the National Guard or civilian employment at a military base alone shall not qualify a person for Kentucky residency status under the provisions of subsections (1) and (2) of this section.

(4) A person's residency status established pursuant to this section shall be reassessed if the qualifying condition is terminated.

Section 8. Status of Nonresident Aliens; Visas and Immigration.

(1) (a) A person holding a permanent residency visa or classified as a political refugee shall establish domicile and residency in the same manner as another person. (b) Time spent in Kentucky and progress made in fulfilling the conditions of domicile and residency prior to obtaining permanent residency status shall be considered in establishing Kentucky domicile and residency.
(2) A person holding a nonimmigrant visa with designation A, E, G, H-1, H-4 if accompanying a person with an H-1 visa, I, K, L, N, R, shall establish domicile and residency the same as another person.
(3) (a) An independent person holding a nonimmigrant visa with designation B, C, D, F, H-2, H-3, H-4 if accompanying a person with an H-2 or H-3 visa, J, M, O, P, Q, S, TD or TN shall not be classified as a Kentucky resident, because that person does not have the capacity to remain in Kentucky indefinitely and therefore cannot form the requisite intent necessary to establish domicile within the meaning of this administrative regulation. (b) A dependent person holding a visa as described in paragraph (a) of this subsection, but who is a dependent of a parent holding a visa as described in subsection (2) of this section, shall be considered as holding the visa of the parent. (c) A dependent person holding a visa described in subsection (2) of this section or paragraph (a) of this subsection, if a parent is a citizen of the United States and is a resident of and domiciled in Kentucky, shall be a resident of Kentucky for the purposes of this administrative regulation.
(4) A person shall be a Kentucky resident for the purpose of this administrative regulation if the person graduated from a Kentucky high school and: (a) Is an undocumented alien; (b) Holds a visa listed in subsections (2) or (3)(a) of this section; or (c) Is a dependent of a person who holds a visa listed in subsections (2) or (3)(a) of this section.
(5) (a) Except as provided in paragraph (b) of this subsection, a person who has petitioned the federal government to reclassify visa status shall continue to be ineligible until the petition has been decided by the federal government. (b) A person who has petitioned the federal government to reclassify visa status based on a marriage to a Kentucky resident and who can demonstrate that the petition has been filed and acknowledged by the federal government, may establish Kentucky domicile and residency at that time.

Section 9. Beneficiaries of a Kentucky Educational Savings Plan Trust.
A beneficiary of a Kentucky Educational Savings Plan Trust shall be granted residency status if the beneficiary meets the requirements of KRS 164A.330(6).

Section 10. Criteria Used in a Determination of Residency Status.
(1) A determination of Kentucky domicile and residency shall be based upon verifiable circumstances or actions. A single fact shall not be paramount, and each situation shall be evaluated to identify those facts essential to the determination of domicile and residency.
(2) The following facts, although not conclusive, shall have probative value in their entirety and shall be individually weighted, appropriate to the facts and circumstances in each determination of residency: (a) Acceptance of an offer of full-time employment or transfer to an employer in Kentucky or contiguous area while maintaining residence and domicile in Kentucky; (b) Continuous physical presence in Kentucky while in a nonstudent status for the twelve (12) months immediately preceding the start of the academic term for which a classification of Kentucky residency is sought; (c) 1. Filing of Kentucky resident income tax return for the calendar year preceding the date of application for a change in residency status; or 2. Payment of Kentucky withholding taxes while employed during the calendar year for which a change in classification is sought; (d) Full-time employment of at least one (1) year while living in Kentucky; (e) Attendance as a full-time, nonresident student at an out-of-state institution based on a determination by that school that the person is a resident of Kentucky; (f) Abandonment of a former domicile or residence and establishing domicile and residency in Kentucky with application to or attendance at an institution following and incidental to the change in domicile and residency; (g) Obtaining licensing or certification for a professional and occupational purpose in Kentucky;
(h) Payment of real property taxes in Kentucky; (i) Ownership of real property in Kentucky, if the property was used by the student as a residence preceding the date of application for a determination of residency status; (j) Long-term lease of at least twelve (12) consecutive months of noncollegiate housing; (k) Marriage of an independent student to a person who was domiciled in and a resident of Kentucky prior to the marriage;
(l) Continued presence in Kentucky during academic breaks; and (m) The extent to which a student is dependent on student financial aid in order to provide basic sustenance.
(3) Except as provided in subsection (4) of this section, the following facts, because of the ease and convenience in completing them, shall have limited probative value in a determination that a person is domiciled in and is a resident of Kentucky: (a) Kentucky automobile registration; (b) Kentucky driver's license; and (c) Registration as a Kentucky voter.
(4) The absence of a fact contained in subsection (3) of this section shall have significant probative value in determining that a student is not domiciled in or is not a resident of Kentucky.
(5) A person shall not be determined to be a Kentucky resident by the performance of an act which is incidental to fulfilling an educational purpose or by an act performed as a matter of convenience. Mere physical presence in Kentucky, including living with a relative or friend, shall not be sufficient evidence of domicile and residency. A person shall respond to all information requested by an institution.

Section 11. Effect of a Change in Circumstances on Residency Status.
(1) If a person becomes independent or if the residency status of a parent or parents of a dependent person changes, an institution shall reassess residency either upon a request by the student or a review initiated by the institution.
(2) Upon transfer to a Kentucky institution, a student's residency status shall be assessed by the receiving institution.
(3) A reconsideration of a determination of residency status for a dependent person shall be subject to the provisions for continuous enrollment, if applicable.

Section 12. Student Responsibilities.
(1) A student shall report under the proper residency classification which includes the following actions: (a) Raising a question in a timely manner concerning residency classification; (b) Making application for change of residency classification in a timely manner with the designated office or person at the institution; and (c) Notifying the designated office or person at the institution immediately upon a change in residency.
(2) If a student fails to notify an institutional official of a change in residency, an institutional official may investigate and evaluate the student's residency status.
(3) (a) If a student fails to provide, by the date specified by the institution, information required by an institution in a determination of residency status, the student shall be notified by the institution that the review has been canceled and that a determination has been made. (b) Notification shall be made by registered mail, return receipt requested. (c) Notification shall be made within ten (10) calendar days after the deadline for receipt of materials has passed.
(4) A student shall not be entitled to appeal a determination of residency status if the determination made by an institution is because a student has failed to meet published deadlines for the submission of information as set forth in subsection (3) of this section. A student may request a review of a determination of residency status in a subsequent academic term.

Section 13. Institutional Responsibilities.
Each institution shall:
(1) Provide for an administrative appeals process that includes a residency appeals officer to consider student appeals of an initial residency determination and which shall include a provision of fourteen (14) days for the student to appeal the residency appeals officer's determination;
(2) Establish a residency review committee to consider appeals of residency determinations by the residency appeals officer. The residency review committee shall make a determination of student residency status and notify the student in writing within forty-five (45) days after receipt of the student appeal;
(3) Establish a formal hearing process as described in Section 14 of this administrative regulation; and
(4) Establish written policies and procedures for administering the responsibilities established in subsections (1), (2), and (3) of this section and that are: (a) Approved by the institution's governing board; (b) Made available to all students; and (c) Filed with the council.

Section 14. Formal Institutional Hearing.
(1) A student who appeals a determination of residency by a residency review committee shall be granted a formal hearing by an institution if the request is made by a student in writing within fourteen (14) calendar days after notification of a determination by a residency review committee.
(2) If a request for a formal hearing is received, an institution shall appoint a hearing officer to conduct a formal hearing. The hearing officer: (a) Shall be a person not involved in determinations of residency at an institution except for formal hearings; and (b) Shall not be an employee in the same organizational unit as the residency appeals officer.
(3) An institution shall have written procedures for the conduct of a formal hearing that have been adopted by the board of trustees or regents, as appropriate, and that provide for: (a) A hearing officer to make a recommendation on a residency appeal; (b) Guarantees of due process to a student that include: 1. The right of a student to be represented by legal counsel; and 2. The right of a student to present information and to present testimony and information in support of a claim of Kentucky residency; and (c) A recommendation to be issued by the hearing officer.
(4) An institution's formal hearing procedures shall be filed with the Council on Postsecondary Education and shall be available to a student requesting a formal hearing.

Section 15. Cost of Formal Hearings.
(1) An institution shall pay the cost for all residency determinations including the cost of a formal hearing.
(2) A student shall pay for the cost of all legal representation in support of the student's claim of residency. (17 Ky.R. 2557; eff. 4-591; Am. 22 Ky.R. 1656; 1988; eff. 5-16-96; 23 Ky.R. 3380; 3797; 4099; eff. 6-16-97; 24 Ky.R. 2136; 2705; 25 Ky.R. 51; eff. 7-13-98; 25 Ky.R. 2177; 2577; 2827; eff. 6-7-99; 749; 1238; eff. 11-12-2002.)