

EXECUTIVE SUMMARY

ACTION ITEM: Amendment of Board policies 4-102 (non-resident tuition), 4-202 (general rules), 4-203 (requirements for resident status), 4-204 (establishing resident status), 4-205 (evidence to be considered), and 4-300 (student financial aid preamble) (Second Reading) and request for authorization to proceed with Proposition 300 implementation plans

ISSUES: The Board is asked to approve amendments to board policies on resident status and financial aid to conform to the Proposition 300 amendments to A.R.S. §15-1803 and §15-1825 regarding persons who are not citizens, not legal residents or who are without lawful immigration status. The Board is also asked to amend the requirements for resident status to conform to the recent amendment to A.R.S. §15-1802 for spouses and dependent children of members of the armed forces who are transferred pursuant to military orders; and to make financial independence a factor to be considered on a case-by-case basis rather than an absolute requirement for intent to be a resident of the state.

The Board is also asked to authorize the universities to proceed with Proposition 300 Implementation Plans as described below.

BACKGROUND:

1. Proposed Policy Amendments (Proposed policy language is shown beginning on page 3.)
 - Effective December 7, 2006, Proposition 300 amended A.R.S. §15-1803 to provide that a person who is not a citizen, a legal resident of the U.S., or who is without lawful immigration status is not entitled to classification as an in-state student. Proposition 300 also created A.R.S. §15-1825 to provide that a person who is not a U.S. citizen and who is without lawful immigration status is not entitled to tuition waivers, fee waivers, grants, scholarship assistance, financial aid, tuition assistance or any other type of financial assistance that is subsidized or paid in whole or in part with state monies.

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- Effective September 21, 2006, A.R.S. §15-1802 was amended by adding an exception to the provision regarding members of the armed forces stationed in this state pursuant to military orders. This amendment clarifies the period during which the spouse or dependent child of a person who is a member of the armed forces stationed in this state pursuant to military orders may attain residency.
- ABOR policy 4-204 (Establishing Resident Status) currently requires each emancipated minor who applies for classification as a resident student to establish financial independence. The proposed amendments would eliminate this absolute requirement in 4-204 but would add financial independence as one element of objective evidence in 4-205 (Evidence to be Considered) that may be used to demonstrate intent to be a resident of the state.

2. Proposed Proposition 300 Implementation

- The Board is also asked to authorize the universities to move forward with Proposition 300 Implementation Plans that comply with all applicable requirements of state and federal law.
 - Each university will designate an individual to oversee Proposition 300 Implementation.
 - Verification procedures will apply to all students who seek in-state tuition status or financial aid from state monies as specified in A.R.S. §§ 15-1803 and 15-1825 and will be completed for new and continuing students seeking these benefits by the last day of registration for Fall 2007.
 - Students who successfully complete the Free Application for Federal Student Assistance ("FAFSA"), which is cross-checked against federal databases to confirm the accuracy of the individual's social security number and claim to a qualifying citizenship status, will be deemed to have satisfied the eligibility requirements of Proposition 300.
 - If the federal matching system is unable to verify the student's status, the campus financial aid office may use the secondary verification determination process as specified in the Federal Student Aid Handbook to verify eligibility for federal aid. If the student completes this secondary process with the financial aid office, the student will be deemed to have satisfied the eligibility requirements of Proposition 300.
 - Students whose status is not verified through the FAFSA process or the secondary verification process described above will not be eligible for financial aid from state monies or in-state tuition status unless they provide alternate documentation of U.S. citizenship, permanent resident status or lawful immigration status.

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- The following documentation may be accepted as evidence of citizenship, permanent residence, or lawful presence, including:
 - An Arizona driver's license or non-operator ID issued by ADOT after 1996
 - Documentation acceptable for voter registration under A.R.S. §16-166
 - Documentation acceptable for a driver's license or non-operator ID
 - A driver's license or non-operator ID issued by another state that verifies lawful presence, as listed by ADOT
 - Documentation issued by U.S. Citizenship and Immigration Services confirming a status as "qualified alien" or "eligible alien" under federal immigration law
- Each university will maintain an auditable record of the verification process, to include: 1) document title; 2) issuing authority; 3) document number, 4) expiration date, if any; 5) the date the document was reviewed 6) the name of the university employee who reviewed the document, and 7) the name of the student who submitted the item.
- For students who fail to verify eligibility, the student will be charged out-of-state tuition and cannot receive state monies in the form of scholarships or financial aid.
- Student challenges to this verification process will be heard through the existing residency classification process.

RECOMMENDATION:

RESOLVED: That the Board approves the amendments to Board Policies 4-102 (Non-Resident Tuition), 4-202 (General Rules), 4-203 (Requirements for Resident Status), 4-204 (Establishing Resident Status), 4-205 (Evidence to be Considered) and 4-300 (Student Financial Aid Preamble) and further that the Board authorizes the universities to proceed with Proposition 300 implementation plans that includes the elements described in this Executive Summary.

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4-102 Nonresident Tuition

~~Each student who is not a legal resident of the State of Arizona shall pay nonresident tuition in an amount set from time to time by the Board except that the Board may set summer session fees which are the same for resident students and non-residents.~~

AS REQUIRED BY A.R.S. §15-1803, A PERSON WHO IS NOT A CITIZEN OR LEGAL RESIDENT OF THE UNITED STATES OR WHO IS WITHOUT LAWFUL IMMIGRATION STATUS IS NOT ENTITLED TO CLASSIFICATION AS AN IN-STATE RESIDENT.

4-202 General Rules

- A. The policies and procedures set forth in ABOR Policies ~~4-204~~ 4-100 through 4-208 (Tuition Classification) shall supplement A.R.S. 15-1801 through 15-1807 in determining classification of students for tuition purposes.
- B. Each university shall follow the policies and procedures set forth in ABOR Policies ~~4-204~~ 4-100 through 4-208 (Tuition Classification) in determining classification of students for tuition purposes.
- C. The central staff of the Board shall prepare an informational summary of the policies and procedures set forth in ABOR Policies ~~4-204~~ 4-100 through 4-208 (Tuition Classification). A university may include this informational summary in its catalog or may otherwise make it available to students and other interested persons.
- D. Each student shall be classified as either a resident student or a nonresident student for tuition purposes. A student who is not classified as a resident student shall pay non-resident tuition in addition to other established fees and charges except that the Board may set special session fees such as those for summer and winter sessions which may or may not be the same for resident and nonresident students.

4-203 Requirements for Resident Status

- A. SUBJECT TO ABOR POLICY 4-102 (Non Resident Tuition), a ~~A~~-person shall be classified as a resident student if domiciled in the state for at least one year immediately preceding the last day of registration. The elements necessary to establish domicile are set forth in ABOR Policies 4 204 and 4-205 (Establishing Resident Status and Evidence to be Considered).
- B. SUBJECT TO ABOR POLICY 4-102 (Non Resident Tuition), a person shall also be classified as a resident student if the person can establish that on or before the last day of registration the person satisfies any one of the following conditions

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1. The person is domiciled in this state and:
 - a. The domicile of the person's parent is in this state, and
 - b. The parent is entitled to claim the person as an exemption for federal and state tax purposes.
2. The person is domiciled in this state and
 - a. The person's spouse has established domicile in this state for at least one year immediately preceding the last day of registration and has demonstrated financial independence,
 - b. The person's spouse is entitled to claim the person as an exemption for federal and state tax purposes, and
 - c. If the person applying to be a student is a non-citizen, the person must be in an eligible visa status to be classified as a resident student.
3. The person is domiciled in this state and the person is:
 - a. An employee of an employer which transferred the person to this state for employment purposes, or
 - b. The spouse of such an employee, or
 - c. An employee of an Arizona employer taking not more than six credit hours solely through electronic course delivery at employer-sanctioned sites in Arizona, when the employer is required to pay additional site fees or transmission costs.
4. The person is a member of the armed forces of the United States stationed in this state pursuant to military orders or is the spouse or dependent child as defined in A.R.S. 43-1001 of a person who is a member of the armed forces of the United States stationed in this state pursuant to military orders AT THE TIME THE SPOUSE OR DEPENDENT CHILD IS ACCEPTED FOR ADMISSION.
5. The person is a member of the Armed Forces of the United States stationed outside of this State pursuant to military orders or is the spouse or dependent child (as defined in A.R.S. 43-1001) of a person who is a member of the Armed Forces of the United States stationed outside of this State pursuant to military orders, and the person claimed Arizona as the person's legal residence for at least twelve

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consecutive months prior to the last date of registration. The person claiming resident status under this section shall be required to:

- a. provide a copy of the military form DD-2058 which verifies state of legal residence; and
 - b. provide evidence of having filed an Arizona Resident Income Tax Return with the Arizona Department of Revenue for the prior tax year on all income from all sources.
6. The person is an honorably discharged member of the Armed Forces of the United States or is the spouse or dependent child as defined in A.R.S. 43-1001 of a person who was honorably discharged from the Armed Forces of the United States, and meets all of the following conditions:
- a. The person claimed Arizona as his/her legal residence for at least twelve consecutive months prior to discharge as evidenced by a DD-2058;
 - b. The person demonstrated objective evidence of intent to be a resident of Arizona by satisfying at least one of the conditions set forth in ABOR Policy 4-205(A)(3) (Evidence to be Considered);
 - c. The person filed an Arizona Resident Income Tax Return with the Arizona Department of Revenue for the prior tax year on all income from all sources;
 - d. The person physically relocated to Arizona following discharge.
7. The person is a member of an Indian tribe recognized by the United States Department of Interior whose reservation land lies in this state and extends into another state and who is a resident of the reservation.
8. The person is domiciled within 75 miles of the Arizona border in Clark County, Nevada or Washington or Kane Counties, Utah, or in San Bernardino, Imperial, or Riverside Counties in California, including the cities of Needles, Blythe, El Centro, Brawley, and Winter Haven, and is enrolling in a total of no more than six (6) credit hours per semester offered in Mohave, La Paz, or Yuma Counties, Arizona by Arizona State University, Northern Arizona University, or the University of Arizona or the person is domiciled within 75 miles of the Arizona

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border in Grant, Hidalgo, or Luna Counties in New Mexico and is enrolling in a total of no more than six (6) credit hours per semester offered in Cochise County, Arizona by Arizona State University, Northern Arizona University, or the University of Arizona. This program is designed to reduce excess capacity; therefore, the Presidents of Arizona State University, Northern Arizona University, and the University of Arizona shall assure that their respective programs do not result in denying course offerings to Arizona residents or result in additional expenditures being required on course offerings.

9. The person is a doctoral graduate student who is a candidate for degree, having completed all requirements for the degree except dissertation, and who qualified as a resident student immediately prior to being eligible to begin dissertation.
10. The person is a graduate assistant or graduate associate at Arizona State University, Northern Arizona University, or the University of Arizona whose assigned teaching or research responsibilities meet the guidelines established by the university for designation as a resident student.
11. The person is an employee of a public school district in this state and is under contract to teach on a full-time basis, or is employed as a full-time noncertified classroom aide at a public school within that school district. For purposes of this paragraph, the person is eligible to pay in-state tuition only for courses necessary to complete the requirements for certification by the State Board of Education to teach in a public school district in this state. No member of the person's family is eligible for classification as an in-state student pursuant to this paragraph, although they may qualify under other exceptions.

The universities:

- a. Shall establish uniform procedures to determine whether courses taken by a teacher or classroom aide qualify under this section.
- b. Shall consider charter schools as public schools consistent with Arizona statutes.
- c. May apply this section to teachers and classroom aides from private schools where those private schools require that teachers hold Arizona teacher certification.

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- C. SUBJECT TO ABOR POLICY 4-102 (Non Resident Tuition), an alien WHO DOES NOT HOLD A VISA THAT PROHIBITS ESTABLISHING DOMICILE IN THIS STATE shall be classified as a resident student if the alien can establish that on or before the last day of registration the alien meets one of the following situations:
1. Qualifies as a resident student under ABOR Policy 4-203A or 4-203B (Requirements for Resident Status); or
 2. Qualifies as a resident refugee student by virtue of having been granted refugee status in accordance with all applicable laws of the United States and having met all other requirements for domicile in this state.
- D. SUBJECT TO ABOR POLICY 4-102 (Non Resident Tuition), a full time student admitted and enrolled at a university who obtains resident status by virtue of ABOR Policy 4-203B.3 (Requirements for Resident Status) does not lose resident status while in continuous attendance toward the degree for which currently enrolled.
- E. The domicile of an unemancipated person is that of such person's parent. SUBJECT TO ABOR POLICY 4-102 (Non Resident Tuition), any unemancipated person who is a student admitted and enrolled at a university and who remains in this state when the person's parent, who had been domiciled in this state, removes from this state does not lose resident status while in continuous attendance toward the degree for which currently enrolled.

4-204 Establishing Resident Status

- A. Each student is responsible for:
1. Obtaining a tuition classification determination prior to registration and payment of fees; and
 - Properly registering for classes using the tuition classification determined by the university.
- B. A student who applies for classification as a resident student shall be responsible for establishing by clear and convincing evidence all factors necessary to provide a basis for such a classification determination.
- C. The deadline to submit a petition for classification as a resident student shall be the last day of registration for credit as published by each university.

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- D. Failure to file a petition for classification as a resident student within the time prescribed shall constitute a waiver of the right to file such a petition for that semester.
- E. IN ADDITION TO THE REQUIREMENTS SET FORTH IN 4-102 (NON RESIDENT TUITION), TO ~~To~~ establish a person's domicile in this state, a student must establish that the person was concurrently:
 - 1. Physically present in this state; and
 - 2. Had the intention of abandoning his or her former domicile and remaining in this state for an indefinite period of time.
- F. If a student who is a minor applies for classification as a resident student and alleges that he or she is an emancipated person, the student, in addition to any other necessary factors to be established, shall also establish that:
 - 1. ~~He or she is financially independent;~~
 - 2. He or she is not living with a parent or relative; and
 - 3. There has been a complete severance of the parental relationship as to all legal rights and liabilities, including care, custody, control and service.
- G. Unless the contrary appears to the satisfaction of the classification officer or review committee making a classification determination, it shall be presumed that:
 - 1. No emancipated person has established a domicile in this state while attending any educational institution in this state as a full-time student in the absence of a clear demonstration to the contrary.
 - 2. Once established, domicile in this state is not lost by mere absence from this state unaccompanied by intention to establish a new domicile elsewhere.
 - 3. A person who has been domiciled in this state immediately prior to becoming a member of the armed forces of the United States shall not lose resident status by reason of such person's presence in any other state or country while a member of the armed forces of the United States.
- H. For any semester, if a student applies for classification as a resident student, but is classified as a nonresident and believes that the classification is

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erroneous, then the student may request a review in accordance with procedures set forth in ABOR Policy 4-207 (Review Procedure).

4-205 Evidence to be Considered

- A. All of the evidence is weighed under the presumption that a non-resident student's presence in Arizona is primarily for the purpose of education and not to establish domicile, and that decisions of an individual as to the intent to establish domicile are generally made after the completion of an education and not before. In determining classification of students for tuition purposes, any relevant evidence may be considered, including, but not limited to, such items as the following:
1. Objective evidence of continuous presence in this state for twelve months.
 2. ~~Objective evidence of self-support as demonstrated by the following:~~
 - a. ~~Employment and earnings~~
 - b. ~~Source of support.~~
 - c. ~~Evidence regarding filing of state income tax returns.~~
 - d. ~~Residence claimed on federal income tax returns of applicant and/or parents.~~
 - e. ~~How and where health and auto insurance policies are maintained.~~
 - 3 2. Objective evidence of intent to be a resident of this state as demonstrated by the absence of ties to the former state of residence and the following:
 - a. FINANCIAL INDEPENDENCE, AS DEFINED IN SECTION 4-201(J). INDICATORS OF FINANCIAL INDEPENDENCE INCLUDE:
 - i. EMPLOYMENT AND EARNINGS.
 - ii. SOURCE OF SUPPORT.
 - iii. EVIDENCE REGARDING FILING OF STATE INCOME TAX RETURNS.
 - iv. RESIDENCE CLAIMED ON FEDERAL INCOME TAX RETURNS OF APPLICANT AND/OR PARENTS.

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v. HOW AND WHERE HEALTH AND AUTO INSURANCE POLICIES ARE MAINTAINED.

- ab. State in which motor vehicle is registered.
- bc. Date of and state issuing driver's license.
- ed. Employment history, including assured future permanent employment in Arizona
- de. The transfer of major banking services to Arizona
- ef. Applications for loans, scholarships, grants-in-aid, or other such assistance
- fg. Date and state in which student is registered to vote
- gh. Place of prior attendance in educational institutions, including high schools, and any information held by such schools affecting domicile
- hi. Marital status and work record of registrant and spouse
- ij. Change in permanent address on all pertinent records
- jk. State in which registered with Selective Service
- kl. Military records
- lm. Ownership of real property
- mn. All other material of whatever kind or source, which may have a bearing on determining domicile or resident status

- B. A student must couple his or her physical presence within Arizona for twelve months with ~~financial independence and~~ CLEAR AND CONVINCING objective evidence of GOOD FAITH intent to make Arizona his or her permanent home. Actions used to indicate intent must be accomplished at the beginning of and maintained throughout the domicile year. ~~If implementation of these steps is delayed, the commencement of the one-year durational period will be delayed. All requirements must be demonstrated for one full year before resident status may be granted.~~ ACTS OR EVENTS OCCURRING LESS THAN ONE YEAR BEFORE THE LAST DAY OF REGISTRATION MAY NOT BE RELIED UPON AS EVIDENCE OF INTENT TO

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ESTABLISH DOMICILE IN ARIZONA, BUT MAY BE CONSIDERED AS EVIDENCE OF THE LACK OF SUCH INTENT.

- C. Whether the evidence is clear and convincing evidence sufficient to meet the student's burden of proof depends not only on the amount of evidence presented, but also its reliability, authenticity, credibility and relevance. A STATEMENT OF INTENT BY THE STUDENT SHOULD BE WEIGHED IN LIGHT OF THE FACT THAT THE STUDENT KNOWS THAT HE OR SHE WILL REALIZE A SUBSTANTIAL REDUCTION IN TUITION BY BEING CLASSIFIED AS A RESIDENT.
- D. Each item presented for determination shall be subject to the classification officer's or review committee's decision as to the weight to be given to it, and such officer or committee shall ~~determine~~ BE THE SOLE JUDGE OF the authenticity or truthfulness of any material or statements submitted as supportive evidence.

4-300 Preamble

A. Financial Aid Statement of Purpose

Education is the cornerstone of a free and enlightened people, and the Arizona Board of Regents affirms that higher education is beneficial to both the individual and society. In order to realize an educated society, a comprehensive and responsible set of financial assistance programs is crucial. These programs will ensure access to higher education, provide choice among education opportunities, promote diversity, enrich campus life, foster retention and graduation of students, and assist in the preparation of a better work force. Financial assistance programs, when properly funded, will provide individuals the opportunity to benefit from a university experience. It is by removing financial barriers and moving toward greater university access for qualified students that our state can most expeditiously ensure its stability, growth, and prosperous future.

B. Policy Goals

1. As per the Arizona Constitution, Article 11, Section 6, "The University and all other State educational institutions shall be open to members of both sexes and the instruction furnished shall be as nearly free as possible." The State's responsibility is to keep the cost of education as nearly free as possible. It is the responsibility of students and their families to share, within their financial ability, in the cost of attendance. Board of Regents' financial aid programs, used in conjunction with federal and other financial aid programs, have the

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goal of minimizing the disparity between student and family resources and cost of attendance.

2. There should be a reasonable mix between loan, work and gift aid. At the undergraduate, graduate, and professional levels, a reasonable proposition of gift/self-help aid should be determined in a manner that minimizes loan indebtedness and weekly work burdens.
 - a. At the graduate and professional level, the mix of aid may be different from undergraduate; loan indebtedness should be minimized by expanding assistantship opportunities, other work opportunities, and gift aid.
 - b. At the undergraduate level, loan indebtedness should be minimized by expanding appropriate work opportunities and increasing gift aid.
 - c. Board of Regents' programs should give priority to gift aid and be used to ensure the appropriate proportion of gift/self-help aid.
3. Board of Regents' financial aid programs may be a mixture of academic merit and financial needs awards.
 - a. At least fifty percent (50%) of undergraduate Board of Regents' aid for Arizona residents shall be awarded to students who have a demonstrated financial need. The universities must use a federally approved need assessment system to determine student financial need.
 - b. At least thirty percent (30%) of undergraduate Board of Regents' aid for Arizona residents shall be awarded to students on the basis of merit.
 - c. Meritorious students with demonstrated financial aid may be included in the calculations described in both a and b.
 - d. The following categories of waivers are not included in the calculations described in a and b:
 1. Athletic Financial Aid (4-305)
 2. Resident tuition waivers for children and spouses of slain Arizona peace officers, Arizona fire fighters, Arizona

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- emergency paramedics and Arizona military service personnel (4-308)
3. Non-Resident Waivers for Students from Sonora, Mexico (4-312)
 4. Resident tuition waivers for members of the Community College All-Arizona Academic Team (4-316)
 5. Qualified tuition reduction (6-902)
 6. Educational assistance Plan (6-903)
4. The majority of all Board of Regents' authorized awards at the undergraduate level should be targeted to resident students whether need- or merit-based and the Board of Regents' funds at the graduate level should be targeted to all graduate students whether need- or merit-based.
 5. In awarding resident waivers, the universities shall take into account the special needs of students from various groups that historically have been underrepresented in the Arizona University System.
 6. Institutional flexibility in administering Board of Regents' programs is essential to address Board initiatives, differing students' needs, and resource availability. Institutions may propose additional aid resources from tuition revenue or other sources during their annual budget process with ABOR.
 7. When tuition fees increase, the Board of Regents should measure and provide for the newly created need.
 8. The Board of Regents should set policy with the goal of affecting cost of attendance and financial aid in such a manner as to decrease the overall need
 9. Policies should be reviewed periodically in light of changing demographics, economic conditions, and federal/state program changes.
 10. Independent entities such as the University Foundation should be encouraged by the Board of Regents to raise funds, develop endowments, and create long-term trusts which will serve to expand and enhance the available base of financial aid sources in the future.

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C. Accountability

1. Each year during the annual budget process, each university shall submit for approval by the Board its financial aid plan, including the value of waivers and cash awards; their distribution among residents and nonresidents, needy and meritorious recipients, undergraduates and graduates; gross tuition revenue; and net tuition revenue.
2. Subsequently, each year during the spring semester, each university shall report to the Board, on forms approved by the Executive Director, the number and value of waivers and cash awards allocated for that academic year and their distribution among residents and non residents, needy and meritorious recipients, undergraduates and graduates; actualized gross tuition revenue; and actualized net tuition revenue.

D. ELIGIBILITY.

AS SET FORTH IN A.R.S. §15-1825, A PERSON WHO IS NOT A CITIZEN OF THE UNITED STATES, WHO IS WITHOUT LAWFUL IMMIGRATION STATUS AND WHO IS ENROLLED AS A STUDENT AT ANY UNIVERSITY UNDER THE JURISDICTION OF THE BOARD IS NOT ENTITLED TO TUITION WAIVERS, FEE WAIVERS, GRANTS, SCHOLARSHIP ASSISTANCE, FINANCIAL AID, TUITION ASSISTANCE OR ANY OTHER TYPE OF FINANCIAL ASSISTANCE THAT IS SUBSIDIZED OR PAID IN WHOLE OR IN PART WITH STATE MONIES.