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## B. TUITION CLASSIFICATION

### 4-201 Definitions

In this Article B, unless the context otherwise provides or requires:

- A. "Adult" means a person who has attained the age of eighteen (18) years.
- B. "Alien" means a person who is not a citizen of the United States or a permanent resident alien.
- C. "Armed forces of the United States" means the Army, the Navy, the Air Force, the Marine Corps, the Coast Guard, the Commissioned Corps of the United States Public Health Services and the National Oceanographic and Atmospheric Administration, the National Guard and any military reserve unit of any branch of the armed forces of the United States.
- D. "Board" means the Arizona Board of Regents.
- E. "Classification officer" means an administrator at each university designated by the president to classify students for tuition purposes.
- F. "Clear and convincing evidence" means evidence that is clear in the sense that it is not ambiguous, equivocal, or contradictory; it is evidence that is satisfactory in the sense that it comes from such a credible source as to cause the hearer to have confidence in it.
- G. "Continuous attendance" means enrollment at a university as a full-time student for a normal academic year from the beginning of the period for which continuous attendance is claimed. A person need not attend summer sessions or other such intersession beyond the normal academic year in order to maintain continuous attendance.
- H. "Domicile" means a person's true, fixed and permanent home and place of habitation. It is the place where the person intends to remain, and to which the person intends to return when leaving without intending to establish a new domicile elsewhere.

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- I. "Emancipated person" means a person who is neither under a legal duty of service to his or her parent nor entitled to the support of such parent under the laws of this state.
- J. "Financial independence", for purposes of this policy, means a student's ability to meet his or her own expenses from self-generated funds under his or her control. A student will generally be considered financially independent if he/she:
  - 1. is a veteran of the U.S. Armed Forces; or
  - 2. was not claimed as an income tax deduction by his/her parents or any other individual for the two years immediately preceding the request for residency classification, and has demonstrated objective evidence of self-support for two years. The two years used to demonstrate self-support are the two tax years immediately preceding the request for residency classification.
- K. "Guardian" means a court appointed legal guardian.
- L. "Last day of registration" means the final day of regular registration for credit for a semester as published by the university.
- M. "Minor" means a person under the age of eighteen (18) years.
- N. "Parent" means a person's father or mother, or if one parent has custody, that parent, or if there is no surviving parent or the whereabouts of the parents are unknown, then a guardian of an unemancipated person if there are not circumstances indicating that such guardianship was created primarily for the purpose of conferring the status of resident student on such unemancipated person.
- O. "President" means the president or acting president of a university and any person authorized and directed by the president to act for him or her.
- P. "Review committee" means a committee at each university designated by the president to review classification determinations.
- Q. "State" or "this state" means the State of Arizona.

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- R. "Student" means a person who registers for one or more credit hours per term.
- S. "Unemancipated person" means a person who has both a legal duty of service to his or her parent and is entitled to the support of such parent under the laws of this state.
- T. "University" means the University of Arizona, Arizona State University, Northern Arizona University, and any other university governed by the Board.

Policy Number: 4-202	Policy Name: Tuition Classification - General Rules
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#### 4-202 General Rules

- A. The policies and procedures set forth in ABOR Policies 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 4-100 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 4-100 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.

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#### 4-203 Requirements for Resident Status

- A. Subject to ABOR Policy 4-102 (Non Resident Tuition), 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:
  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

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- 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. A person who was serving at a military installation in Arizona at the time the person was honorably discharged from any branch of the armed forces of the United States is entitled to immediate classification as an in-state student, without regard to the length of time the person was domiciled in this state.
  5. 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.
  6. 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 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.
  7. The person is an honorably discharged member of the Armed Forces of the United States or is the spouse or dependent child as

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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.
8. 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.
  9. 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 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

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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.

10. 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.
11. 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.
12. 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.

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- c. May apply this section to teachers and classroom aides from private schools where those private schools require that teachers hold Arizona teacher certification.
  
- 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; provided that in establishing domicile, the alien must not hold a visa that prohibits establishing 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.

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#### 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
  - 2. 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
- 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 establish a person's domicile in this state, a student must establish that he or she 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 not living with a parent or relative; and

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

Policy Number: 4-205	Policy Name: Evidence to be Considered
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#### 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 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.
      - v. How and where health and auto insurance policies are maintained.
    - b. State in which motor vehicle is registered.
    - c. Date of and state issuing driver's license.
    - d. Employment history, including assured future permanent employment in Arizona
    - e. The transfer of major banking services to Arizona
    - f. Applications for loans, scholarships, grants-in-aid, or other such assistance

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- g. Date and state in which student is registered to vote
  - h. Place of prior attendance in educational institutions, including high schools, and any information held by such schools affecting domicile
  - i. Marital status and work record of registrant and spouse
  - j. Change in permanent address on all pertinent records
  - k. State in which registered with Selective Service
  - l. Military records
  - m. Ownership of real property
  - n. 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 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. Acts or events occurring less than one year before the last day of registration may not be relied upon as evidence of intent to 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 be the sole judge of the authenticity or truthfulness of any material or statements submitted as supportive evidence.

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#### 4-206 Classification Procedures

- A. Enforcement of the requirements of this Article B shall be the responsibility of the president of each university who shall designate a classification officer who shall classify each student for tuition purposes.
- B. To apply for a tuition classification determination, a student shall file with the classification officer or with the university's admissions office, whichever is appropriate to each university's practices and procedures, the following:
  - 1. A domicile affidavit in a form available from the university and which sets forth information relevant to making a classification determination; and
  - 2. If resident status is sought, all additional supporting documents sufficient to meet the student's burden of providing clear and convincing evidence of all factors necessary to provide a basis for classification as a resident student. The university may require that one or more of these supporting documents are in a notarized form.
- C. The classification officer shall make a determination in a timely manner after all information has been received. In determining a student's classification, the classification officer:
  - 1. May use informal procedures to facilitate classification including discussion, exchange, counseling, and other kinds of communication with the student.
  - 2. May consider all evidence, written or oral, presented by the student and any other information obtained by the university or received from any source and which is relevant to determining classification.
  - 3. May request written sworn statements to be supplied by the student and/or parent(s) and/or guardian(s).
  - 4. May consult with other university officials prior to making a determination.

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- D. Notice of the determination shall be communicated to the student orally or by mail to the most recent address furnished to the university by the student. If the student is classified as a nonresident, the student must pay non-resident tuition and other fees and charges at time of registration.

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#### 4-207 Review Procedure

- A. Upon appeal, the university review committee shall be responsible for rendering a decision in accordance with Arizona State Statutes and Board Policy for determining tuition status.
- B. The university tuition classification review system shall consist of one or more review committees. Each committee shall consist of at least three voting members appointed by the president of the university for a term of one fiscal year. Members may be reappointed by the president. The president shall determine the number of committees required to expeditiously conduct review hearings.
- C. The president shall designate a chair for each committee, who shall serve at the pleasure of the president and shall retain voting privileges. Members of each committee may include representatives from the faculty, administration, staff, professionals and student body of the university. Classification officers shall not serve as members of such a committee. The president may also appoint alternates who shall serve in place of a regular committee member at any hearing at which such regular member may be absent or disqualified.
- D. At least three committee members, including any alternates, must be present to conduct a hearing and render a decision in any request for review of a classification determination.
- E. A request for review by a student classified as a nonresident shall be filed with the classification officer no later than 35 days from the last day of registration. The request shall be in writing, signed by the student and shall include (a) the student's current mailing address; (b) the reasons why the student claims the classification determination is erroneous; and (c) a signed statement setting forth all facts in support of the student's claim that the classification determination is erroneous.
- F. Failure to file a request for review within the time prescribed shall constitute a waiver of the right to request review.
- G. The review committee shall schedule a hearing within a reasonable time after receipt of request for review and shall provide the student with written notice of the date, time and place of the meeting at least seven days prior

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to the meeting. Such notice may be made personally or by certified mail to the current address listed by the student with the university.

- H. The student shall have the right to appear and may be represented by an advisor of his or her choice at the student's expense. If the student, without valid excuse or prior authorization, fails to appear, the committee may determine the matter on the basis of evidence before it. The student or the student's advisor, but not both, may examine and cross-examine witnesses and summarize the evidence in final argument to the committee.
- I. Every document filed with the university relating to classification of the student for tuition purposes shall constitute a part of the record. The committee shall also hear any relevant evidence, which the student or the university wishes to present.
- J. Formal rules of evidence shall not apply. The committee shall receive and consider oral and documentary evidence of the kind on which responsible persons are accustomed to rely in serious matters. The committee may exclude evidence that is cumulative or repetitious, and will determine the credibility or weight to be given to the evidence presented.
- K. The proceedings of the committee shall be recorded. Any copies of the record, or copies of a transcript if one is created, desired by the student shall be at the student's expense.
- L. The order of proof shall be determined by the committee.
- M. The committee may make such rules for the conduct of hearings as are not inconsistent with these procedures.
- N. The decision of the committee shall be final. The decision may be made by the committee at the time of the hearing, or the committee may take the matter under advisement in which case the matter shall be decided within ten days following the hearing.
- O. Written notice of the decision of the committee shall be promptly sent by certified mail to the student's current address filed with the university.
  - 1. If the committee determines that the student should be classified as

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a resident student, it shall direct the classification officer of the university to so classify the student, and the university shall then refund to the student the difference between the non-resident and resident tuition collected as a result of the nonresident classification. If the student files to appeal the initial classification of residency (upon admission) within the first term of attendance and the student is successful in that appeal, any difference between the in-state and out-of-state application fee paid by the student will also be refunded.

2. If the student is determined to be a nonresident, the written notice shall advise the student that no further procedures within the university are available; that the student may have right to judicial review in the state courts; that the time to pursue any legal action may be short; and that if the student wishes to pursue legal action, the student should seek legal counsel.

Policy Number: 4-208	Policy Name: Miscellaneous Provisions
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#### 4-208 Miscellaneous Provisions

- A. The classification of a matriculated student is transferable from one university to another, but the student or the university to which the student seeks to transfer may request or initiate reconsideration of tuition status at time of transfer.
- B. Any student found to have made a false or misleading statement concerning domicile or tuition status shall be subject to dismissal from the university.
- C. Each university retains the right to review and redetermine classification of students for tuition purposes in accordance with the criteria established in this policy.