

**RULES
OF
TENNESSEE HIGHER EDUCATION COMMISSION**

**CHAPTER 1540-1-1
REGULATIONS FOR CLASSIFYING PERSONS AS TENNESSEE RESIDENTS
FOR THE PURPOSE OF PARTICIPATING IN
TENNESSEE HIGHER EDUCATION COMMISSION PROGRAMS**

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1540-1-1-.01 INTENT. The Tennessee Higher Education Commission shall apply uniform rules, as described in these regulations and not otherwise, in determining whether persons shall be classified as Tennessee residents. There shall be one standard for all programs administered by the Commission or requiring certification of residency by the Commission, unless specifically excluded. Examples of covered programs include Southern Regional Education Board Academic Common Market programs, the Black Medical-Dental-Pharmacy Conditional Grant program, and Contract Education programs.

Authority: T.C.A. §§49-3607, 49-7-203, and 49-7-301. **Administrative History:** Original rule filed March 26, 1974; effective April 24, 1974. Repeal and new rule filed September 29, 1988; effective December 28, 1988.

1540-1-1-.02 DEFINITIONS. Wherever used in these regulations:

- (1) “Public higher educational institutions” shall mean a university or community college supported by appropriations made by the Legislature of this State.
- (2) “Residence” shall mean continuous physical presence and maintenance of a dwelling place within this State, provided that absence for short periods of time shall not affect the establishment of residence.
- (3) “Domicile” shall mean a person’s true, fixed, and permanent home and place of habitation; it is the place where he or she intends to remain, and to which he or she expects to return when he or she leaves without intending to establish a new domicile elsewhere.
- (4) “Emancipated person” shall mean a person who has attained the age of 18 years, and whose parents have entirely surrendered the right to care, custody, and earnings of such person and who no longer are under any legal obligation to support or maintain such deemed “emancipated person.”
- (5) “Parent” shall mean a person’s father or mother. If there is a non-parental guardian or legal custodian of an unemancipated person, then “parent” shall mean such guardian or legal custodian; provided that there are not circumstances indicating that such guardianship or custodianship was created primarily for the purpose of conferring the status of an in-state student on such unemancipated person.
- (6) “Continuous enrollment” shall mean enrollment at a public or private higher educational institution or institution of this State as a full-time student, as such term is defined by the governing body of said public or private higher educational institution or institutions, for a normal academic year or calendar year, or the appropriate portion or portions of such years thereof since the beginning of the period for

(Rule 1540-1-1-.02, continued)

which continuous attendance is claimed. Such person need not enroll in summer sessions or other such inter-sessions beyond the normal academic year in order that his or her enrollment be deemed "continuous" notwithstanding lapses in enrollment occasioned solely by the scheduling of the commencement and/or termination of the academic years, or appropriate portion thereof, of the public or private higher education institutions in which such person enrolls.

- (7) "Commission" shall mean the Tennessee Higher Education Commission.
- (8) "SREB" shall mean the Southern Regional Education Board.

Authority: T.C.A. §§49-3607, 49-7-203, and 49-7-301. **Administrative History:** Original rule filed March 26, 1974; effective April 24, 1974. Repeal and new rule filed September 29, 1988; effective December 28, 1988.

1540-1-1-.03 RULES FOR DETERMINATION OF STATUS.

- (1) Every person having his domicile in this State shall be classified "in-state" for purposes of participating in programs administered by the Commission or requiring certification of residency by the Commission.
- (2) Every person not having his or her domicile in this State shall be classified "out-of-state" for said purposes.
- (3) The domicile of an unemancipated person is that of his or her parent.
- (4) The domicile of a married person shall be determined independent of the domicile of the spouse.

Authority: T.C.A. §§49-3607, 49-7-203, and 49-7-301. **Administrative History:** Original rule filed March 26, 1974; effective April 24, 1974. Repeal and new rule filed September 29, 1988; effective December 28, 1988.

1540-1-1-.04 CERTAIN PROGRAMS EXCLUDED.

- (1) The rules for determination of status for the SREB Optometry contract education program shall be the same as the rules for qualification as a resident for purposes of tuition according to the rules and regulations of the University of Tennessee or the Board of Regents of the State University and Community College System.
- (2) The rules for determination of status for the SREB Medicine and Dentistry contract education programs shall be the same as the rules for qualification as a resident for purposes of tuition according to the rules and regulations of the University of Tennessee or the Board of Regents of the State University and Community College Systems.

Authority: T.C.A. §§49-3607, 49-7-203, and 49-7-301. **Administrative History:** Original rule filed March 26, 1974; effective April 24, 1974. Repeal and new rule filed September 29, 1988; effective December 28, 1988.

1540-1-1-.05 OUT-OF-STATE PERSONS WHO ARE PERMITTED TO PARTICIPATE AS IN-STATE PERSONS.

- (1) An unemancipated, currently enrolled student shall be reclassified out-of-state should his or her parent, having theretofore been domiciled in this State, remove from this State. However, such student shall be permitted to participate in Commission programs as if they were classified in-state so

(Rule 1540-1-1-.05, continued)

- long as his or her enrollment at a public or private higher educational institution or institutions shall be continuous.
- (2) An unemancipated person whose parent is not domiciled in this State but whose parent is a member of the armed forces and stationed in this State or at Fort Campbell pursuant to military orders shall be classified out-of-state but shall be permitted to participate in Commission programs as if they were classified in-state. Such person's status, while in continuous attendance toward the degree for which he or she is currently enrolled, shall not be affected should his or her parent thereafter be transferred on military orders.
 - (3) A person whose domicile is in a county of another state lying immediately adjacent to Montgomery County, or whose place of residence is within thirty (30) miles of Austin Peay State University shall be classified out-of-state but shall be permitted to participate in Commission programs as if they were classified in-state. Provided, however, that there be no teacher's college or normal school within the non-resident's own state, of equal distance to said non-resident's bona fide place of residence.
 - (4) Part-time students who are not domiciled in this State but who are employed full-time in the State, or who are stationed at Fort Campbell pursuant to military orders, shall be classified out-of-state but shall be permitted to participate in Commission programs as if they were classified in-state.
 - (5) Military personnel and their spouses stationed in the State of Tennessee who would be classified out-of-state in accordance with other provisions of these regulations will be classified out-of-state but shall be permitted to participate in Commission programs as if they were classified in-state. This provision shall not apply to military personnel and their spouses who are stationed in this State primarily for educational purposes.
 - (6) Persons from the counties of Fulton, Hickman, and Graves in the Commonwealth of Kentucky shall be permitted to participate in Commission programs as if they were classified in-state on the condition that Murray State University in Murray, Kentucky, continue to admit Tennessee residents from selected Tennessee counties to enroll at that institution without payment of out-of-state tuition, as is being done at this time.
 - (7) Persons whose bona fide place of residence is in Mississippi County, Arkansas, or either Dunklin County or Pemiscot County, Missouri, shall be permitted to participate in Commission programs as if they were classified in-state.
 - (8) Active-duty military personnel who begin a degree program while stationed in Tennessee or Ft. Campbell, Kentucky and are deployed or transferred prior to completion of their degree program may continue to enroll in the Tennessee institution and be classified as out-of-state residents, but shall be permitted to participate in Commission programs as if they were classified in-state residents. This classification remains in effect as long as he / she completes at least one (1) course for credit each twelve (12) month period after the transfer or deployment. Exceptions may be made in cases where the service member is deployed to an area of armed conflict for periods exceeding twelve (12) months.

Authority: T.C.A. §§49-3607, 49-7-203, and 49-7-301. **Administrative History:** Original rule filed March 26, 1974; effective April 24, 1974. Repeal and new rule filed September 29, 1988; effective December 28, 1988. Amendment filed July 30, 2001; effective November 28, 2001.

1540-1-1-.06 PRESUMPTIONS.

(Rule 1540-1-1-.06, continued)

- (1) Unless the contrary appears from clear and convincing evidence, it shall be presumed that an emancipated person does not acquire domicile in this State while enrolled as a full-time student at any public or private higher education institution in this State, as such status is defined by such institution.
- (2) A person does not gain or lose Tennessee resident status for reason of his presence in any state or county while a member of the armed forces of the United States, or while attending a college or university in any other state, provided that a member of the armed forces may obtain Tennessee resident status for himself and his or her dependents by establishing his or her domicile in this State.

Authority: T.C.A. §§49-3607, 49-7-203, and 49-7-301. **Administrative History:** Original rule filed March 26, 1974; effective April 24, 1974. Repeal and new rule filed September 29, 1988; effective December 28, 1988.

1540-1-1-.07 EVIDENCE TO BE CONSIDERED FOR ESTABLISHMENT OF DOMICILE.

If a person asserts that he or she has established domicile in this State, he or she has the burden of proving he or she has done so. Such a person is entitled to provide to the Commission any and all evidence which he or she believes will sustain his or her burden of proof. Said Commission will consider any and all evidence provided to it concerning such claim of domicile but will not treat any particular type or item of such evidence as conclusive evidence that domicile has or has not been established. Examples of such evidence include home ownership, marriage to a bona fide Tennessee resident, and possession of a Tennessee driver's license.

Authority: T.C.A. §§49-3607, 49-7-203, and 49-7-301. **Administrative History:** Original rule filed March 26, 1974; effective April 24, 1974. Repeal and new rule filed September 29, 1988; effective December 28, 1988.

1540-1-1-.08 APPEAL.

All Tennessee resident classifications shall be by the executive director of the Tennessee Higher Education Commission in accordance with these regulations. The decision of the executive director may be appealed to the Tennessee Higher Education Commission which shall, after granting a hearing and fully considering the merits of each case, make a final classification of the applicant. The decision of the Tennessee Higher Education Commission is final.

Authority: T.C.A. §§49-3607, 49-7-203, and 49-7-301. **Administrative History:** Original rule filed September 29, 1988; effective December 28, 1988.

1540-1-1-.09 EFFECTIVE DATE.

The proposed rules set out herein were properly filed in the Department of State and pursuant to the instructions set out above, and in the absence of the filing of an appropriate petition calling for a rulemaking hearing, will become effective December 28, 1988.

Authority: T.C.A. §§49-3607, 49-7-203, and 49-7-301. **Administrative History:** Original rule filed September 29, 1988; effective December 28, 1988.